STATUTE LAW.

REPORT

OF

Mr. Bellenden Ker to the Lord Chancellor,

ON THE

PROCEEDINGS OF THE BOARD

FOR THE

REVISION OF THE STATUTE LAW.

Ordered, by The House of Commons, *to be Printed,*
12 *June* 1854.

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STATUTE LAW.

RETURN to an Address of the Honourable The House of Commons, dated 20 August 1853;—*for*,

"COPY of the REPORT of the COMMISSIONERS appointed to inquire into the best Means of CONSOLIDATING the STATUTE LAW of the Country."

(*Mr. Walpole.*)

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STATUTE LAW COMMISSION.

Report of Mr. Bellenden Ker to the Lord Chancellor, on the Proceedings of the Board for the Revision of the Statute Law.

My Lord,

In pursuance of your Lordship's directions, I now lay before you a statement of what has been done by Mr. Coode, Mr. Anstey, Mr. Brickdale, and Mr. Rogers, the four gentlemen appointed by your Lordship, who, under my direction and your immediate superintendence, were to proceed to the Consolidation of the Statute Law.

The letter of Mr. Spring Rice on the appointment of the four Commissioners is placed in the Appendix to this Report.

In my letter to your Lordship, dated 20th May, I stated that the Board met for the first time on the 2d of April last, and had several subsequent meetings, at which we considered what would be the best mode of proceeding to carry out the objects pointed out by your Lordship. I then proceeded to give an account of the progress made up to that time, in the following terms:—

"It was arranged that Mr. Anstey and Mr. Rogers should proceed with a "careful examination of the statutes, commencing with the earliest, and should "make a list of such as are obsolete, or expired, or directly or virtually re- "pealed, for the purpose of making a report to your Lordship, enumerating "those which it may appear desirable at once to repeal, or declare repealed, in "order to remove so much useless matter from the statute book.

"In these lists great progress has been made; and Mr. Anstey and Mr. "Rogers expect, I believe, to have completed the revision of the whole statute "book (for this preliminary purpose) before the end of the present session.

"Mr. Coode has been employed on a critical examination of the statutes "on a different system, beginning with the latest statute, for the purpose of "ascertaining, exhaustively, what is the law now in force; this will enable him, "when his task is finished, to check and complete the lists of Mr. Anstey and "Mr. Rogers.

"Mr. Brickdale has been employed in preparing specimens of a digest "according to several methods:—

"1st. A digest of the mere statute law.

"2d. A digest of the whole law, as it now exists, including both statute "and common law, and the decisions of the courts, but without introducing "any alterations.

"3d. A digest or code of the law, introducing such improvements and "simplifications as appear desirable, without departing from any general

" principles of English law. The subject which he has taken is that of " Distress for Rent.

" Mr. Anstey is also preparing, as a specimen, a digest of the law relating " to Insurance; and Mr. Coode is completing a very elaborate and (I conceive) " very useful digest of the statutes now in force relating to the Poor, a subject " with which he has been familiar for some time. It is also proposed that " Mr. Rogers shall prepare specimens of a digest of the law relating to Masters " and Servants.

" The objects of these specimens will be to give your Lordship some " means of judging what will be the comparative value of digests prepared " in the several modes above mentioned, and also what amount of alteration " of the law will be necessary, in order to make it more simple and accessible " than it now is.

" Mr. Brickdale has also employed a portion of his time in revising the list " of repealed and other statutes prepared by Mr. Rogers, and Mr. Anstey's list " will be revised in like manner before being submitted to your Lordship.

" During the progress of our examination of the statutes, the attention of " all parties has been turned to the consideration of what improvements may be " introduced in the mode of framing and passing future statutes, and especially " to the consideration of the different Clauses Consolidation Acts, which have " been so useful in diminishing the length and ensuring the completeness and " uniformity of local and personal acts, with a view to the question whether " they may not be rendered more complete, and whether the principle on which " they are based may not be extended."

In determining the mode of proceeding by the different members of the Board, it occurred to me that, in addition to a preliminary examination of the statute book, with reference to its revision, it would be advisable that each should prepare a note of his views as to the best mode of carrying out your Lordship's directions. Accordingly, Mr. Coode, Mr. Anstey, Mr. Brickdale, and Mr. Rogers have stated their opinions in separate papers.

Mr. Anstey and Mr. Rogers, having completed the examination of the statutes, have added a very valuable joint note, containing a statistical account of the existing public general statutes now in force.

It was, (as is stated in my letter above referred to,) determined that each Commissioner should prepare a specimen of a digest or consolidation of some particular branch of statute law; and this has been done by Mr. Brickdale. It is proper here to state, that each Commissioner is solely answerable for the papers bearing his name.

As Mr. Coode has been long engaged on a digest of the Poor Laws, and as I found that a large portion of it was already set up at the Queen's printers; with Mr. Coode's assent and your Lordship's sanction, I determined to add it to this Report as a very valuable specimen of a digest of the existing statutes. This work will at a glance show the complex state of the enactments relating to the Poor, the great value of such a digest to any person having to consolidate or amend the existing law, and the necessity of at once simplifying the existing law on this important head.*

In a letter addressed to the Poor Law Board on the 4th of October 1851, Mr. Coode makes the following observations: "The Poor Law statutes now in

* The Digest of the Poor Laws here referred to is not yet completed.

" force wholly or partially are about 160 (162) in number, besides a multitude " of incidental provisions dispersed through statutes mainly relating to other " subjects. Of these Poor Law Acts, at least 40 (43) have accumulated since " the enactment of the Poor Law Amendment Act in 1834. The entire series is " spread through the statutes at large from 1603 to 1851 (249 years), and they " differ as much as during so great a period might be expected, in policy, ex- " pression, form, and substance. They have been the subject of discussion and " of judicial exposition quite as various in its character, in more than 1,900 " reported cases (counting only those which still are of some authority), dis- " persed absolutely without order through the works of at least 62 legal reporters " and 149 volumes, of which a few are still only in black letter, and many others " are scarce and rarely referred to.

" Of all this mass of print, but a comparatively small portion is in effectual " operation as law at the present time."

The time occupied by Mr. Anstey and Mr. Rogers in the preparation of the expurgatory lists of the statutes rendered it impossible for them to proceed on the preparation of specimens of a digest. Indeed, without reference to Mr. Anstey's time having been fully occupied in the revision of the statutes, it appears from his separate paper that he abandoned the intention of the preparation of a digest of the statutes relating to Insurance, conceiving " that " fragmentary specimens were but ill calculated to convey a true notion of the " future digest."

It was the wish of Mr. Anstey and Mr. Rogers that the whole of their expurgatory list should be added to this Report; but for the present purpose I conceived that it would be sufficient to furnish a few specimens of the different parts of this very laborious work, the whole of which has been delivered to me; and I propose, as soon as some additions have been made to their lists, and when the whole have been revised, that these should be printed for public use, as they will be very valuable until the revision of the whole statute law shall be accomplished.

The list of statutes, showing what were repealed or obsolete, appended to the Report of the Statute Law Commissioners, 1835, was prepared by the late Sir Henry Seton. Whilst in India he completed that list, which was brought to England by Sir E. Ryan, and was found very useful by Mr. Anstey and Mr. Rogers in the construction of their lists. Sir H. Seton also wrote some very important observations in the statute law, and which I add in the Appendix, and also a note by Mr. Rogers relating to Sir H. Seton's lists.

The mode adopted by Mr. Coode for the examination of the statute book was different from that adopted by Mr. Anstey and Mr. Rogers. A specimen of his list is also subjoined, with a paper showing his view of its value and importance.

Whether a mere expurgation of the existing statutes, so as to ascertain what is the exact text, or a consolidation of the whole, or only of certain branches of the statute law, and either incorporating or not such portions of the common law as are connected with it, be determined on, the materials furnished by the labours of Mr. Anstey and Mr. Rogers and Mr. Coode will always serve as the basis of whatever scheme is adopted.

The Commissioners for the Revision of the Statute Law, in their Report (1835), observe,—

" We are of opinion, that a revision of the statutes to a limited extent " would be attended with manifest advantage, to be obtained by simple, easy, " and unobjectionable means.

" We apprehend that the mere extirpation of all such enactments as are " obsolete or superfluous, the rejection of repetitions of terms of frequent " occurrence, and the extrication of material words from the superfluity of " language by which the law is often obscured, would greatly reduce the bulk " and consequent costliness of the statute book, and would render it more " accessible and intelligible to the generality of Your Majesty's subjects.

" We think that such a rejection would be still more beneficial, if an " arrangement were added which would render the law more accessible, without " diminishing the aid for its interpretation now derived from context and " order of time, and if such discretionary alterations were also made in " consolidating and generalizing its enactments, and removing and supplying " obvious ambiguities and omissions, as might be effected without danger of " uncertainty.

" We also think that a complete and systematic consolidation, accompanied " with an adjustment of the enactments to precedent and judicial decision, is " practicable and desirable; but so extensive a reform, however beneficial, " could not, we are aware, be safely accomplished without great pains, nor " ought it to be attempted without cautiously weighing the means of performing " so arduous a task, and steadily contemplating the difficulties to be encountered " in its execution."

It must be admitted that a declaratory law, removing from the statute book all laws now become obsolete, and in cases of doubt as to whether a law is or is not repealed, solving the doubt by a declaratory enactment, would be an advantage, and would much reduce the bulk of the statute book; or, in addition to such an enactment, the statute law might be subjected to that limited revision suggested in the first portion of the recommendation of the Statute Law Commissioners.

On an attentive consideration of this important and difficult question, I think there are only two courses to be pursued from which any material advantage is likely to result;—

First, either to complete by careful examination the expurgatory lists of Mr. Anstey and Mr. Rogers, and then by declaratory acts to ascertain what statutes are or are not in force, and thus leave the existing text of the statute law ready for future consolidation;

Or, at once, to determine on a consolidation of the existing law, reducing each subject into separate chapters, so that there should be only one statute relating to each matter.

I do not here enter into the mode in which I propose that this should be done. Indeed, I think it must be assumed that different courses would be advisable with different portions of the law; as, for example, certain statutes respecting which many decisions have taken place, and which may be considered as having been worked out into a body of law by decisions (*e.g.* the Statute of Uses), this act it might, perhaps, be safer to leave untouched, as simply declaratory of the law; whilst a large body of statutes, as, for example, those relating to Customs, Excise, Stamps, &c., might be simply reduced into one statute. Again, statutes which are manifestly defective or obscure, might, in the course of the same

process, be made plain and complete, and, to a considerable extent, one uniform mode of expression might be introduced.

In addition to the importance of having the law comparatively accessible, and within a reasonable compass, and freed, as far as possible, from obscurities and doubts, a great advantage would be gained by this process with regard to future legislation. It would no longer be necessary, as it now is, to examine a large mass of enactments (often conflicting) previously to the preparation of a new law or the alteration of an old one; or, what is worse, to insert savings of any unknown provisions or enactments; but the consolidation once effected, the law to be altered or abrogated would be known, and under the direct consideration of the framer of the new act. Fortunately, we have an example of the advantage of this process in the Revised Statutes of New York.

The State of New York having long since felt the necessity of a revision of their statutes, which were, in a great degree, similar to those in this country, a Commission was issued, and a very successful revision and consolidation of the statutes was effected.

In the Appendix to the Report of the Statute Law Commission, (to which I have already referred,) parts of the Reports of these Commissioners are printed, and I conceive the views of the American Commissioners as to the mode of performing their task would much assist the labours of any Board similarly employed. The revisers found it convenient to incorporate, when the subject required it, not only the provisions of the statutes, but also the substance of the common law; the whole Revised Statutes, containing the Reports of the Commissioners, is printed in three moderate sized octavo volumes.

The following is a note, made by Mr. Brickdale, of a conversation which he had at my request with Mr. Parker, a Judge of the Supreme Court of New York (July 4, 1853), respecting the Revised Statutes of New York :—

"The 'Revised Statutes' only profess to be a codification of the statute "law; such parts of the common law as they comprise are only what could not "be separated from statutory enactments.

"Practically no inconvenience is felt from the circumstance that part of the "law is in the form of a code, and the remainder not; nor is the want of precise "definitions of the terms used in the code found to create difficulty. On the "whole, the revision is considered entirely successful, and is popular with the "profession. With respect to authentic editions of revised statutes, incorporating the laws made subsequently to the original revision, there are no "official editors. The first edition of the Revised Statutes (which came into "full operation in 1830) is the only one which has received the sanction of the "Legislature. The subsequent editions have no official character, and it is "open to any one to allege that the effect of a subsequent law has been wrongly "introduced.

"Some mistakes have been detected in the last edition (the fourth), which "is considered not quite so trustworthy as the preceding ones, not being, like "them, the work of the original revisers; but on the whole, in consequence "of the convenient way of substituting one article for another, which the form "of the code provides, the new editions are, practically, relied on with tolerable "confidence. The only legislative provision for ensuring authenticity is a "provision that no editions may be read in evidence unless certified to be "correct by a Secretary of State, or by two of the original revisers."

I learn from Mr. C. Loring, an American barrister of eminence, that the revision and consolidation of the statute law has also been very successfully effected in the State of Massachusetts.

I think, as I have before stated, that although many reasons exist in favour of an actual digest of the statute law, the greatest value of such a digest would be the facilities it would afford to future legislation.

One of the main objections, in this country, to reducing the common or unwritten law into the form of a statute is, that the common and the statute law are subjected to different principles of construction by the Judges. As far as I can form an opinion, this difficulty does not exist to any great extent in the American courts; the rules for the construction of the statute law not being there so strict and literal as those adopted in our courts. It is possible that any inconvenience on this head might be obviated by a direction that the consolidated statute and common law should be considered as one body of law, and construed by such rules as are applicable to the common law.

Supposing it is determined by your Lordship that the proceedings of the Board are not to be confined to merely ascertaining what is the precise text of the statute law, then I suggest that before any declaratory acts are prepared, it will be desirable that the process of consolidation should be first commenced; for although it would appear the more regular and systematic course to ascertain the exact amount of statutes now in force first, and afterwards to group together and consolidate them, yet practically, if such a course were to be strictly followed, a very great amount of labour would be wasted.

There are several large classes of statutes (especially those relating to Public Departments, Excise, Customs, Assessed Taxes, &c.) which are in such a state, owing to the loose way in which successive statutes on the same subject have been drawn, that it would be a matter of very considerable labour and time to ascertain by critical comparison, and on principles of construction alone, which of them are necessarily repealed. At the same time only a few of the most recent of them are practically considered to be in force. If these classes of statutes are consolidated before any attempt at a complete revision is made, the following advantages will be obtained: 1st. The result of the subsequent revision will be far more satisfactory; inasmuch as the revisers will be able to omit with certainty a vast amount of matter from the revised statutes, which they could not venture to strike out on principles of construction alone; 2dly. The whole of the labour and time necessary for ascertaining the extent of repeal on principles of construction will be saved. If the revision is completed first, this labour and time must not only be expended, but, if a consolidation follows, will be quite wasted. The quantity of statutory matter which is at present in the uncertain state above mentioned, so that it could not be safely omitted in a mere revision, though it would be swept away without difficulty in a consolidation, is apparently very considerable; perhaps a great part of it would, by careful and minute examination, be found capable of being certainly ascertained to be either in force or repealed; but however great that proportion may be, the mass to be dealt with is so extensive that any compendious mode of dispensing with such examination would be a great saving.

The above considerations seem, therefore, to lead to the conclusion that the best practical plan would be to consolidate such of the groups of statutes as most urgently require it in the first instance, and to proceed to a general revision of the statute book afterwards.

It may be said that if *any* consolidation is to precede revision, we may as well take *all* subjects which admit of consolidation successively, and when that is done, revision will be no longer needed. Practically, however, it must be felt that it would require much time to consolidate the statutes on all subjects in this way, and that (as to several of them) there would be so many difficulties and so much opposition, that a revision of the statute book ought not to be altogether postponed.

I would however submit, that the most useful way in which the Board could be employed for the present would be the consolidation of groups of statutes, taking first those which most need that process, and as to which no objections are to be apprehended, and proceeding to other subjects, until it is found that practically none are left which could be conveniently dealt with.

The advantage of this course of proceeding is, that each subject will be complete as far as it goes, and the merit of the work done will at once be tested; and when that point is gained, at which it is considered practically that it is inexpedient to attempt further consolidation, the Board might then proceed to revision of the residue of the statute book, and their task would then be very greatly simplified by what they had previously done. Care, of course, being taken to frame the consolidated acts on a uniform principle, so as to ensure the unequivocal abrogation of all the previous statutes incorporated or superseded. The neglect of this point by the framers of most consolidated statutes hitherto, is in a great degree the cause of the present unsatisfactory state of the statute book, as is pointed out by Mr. Rogers in his paper.

Assuming that the course I have recommended is pursued, it will not be necessary for the present to prepare a list of those statutes, of which it is doubtful whether they are in force or not, with a view to the introduction of a declaratory act repealing or confirming them, as most of the "doubtful" statutes would be disposed of more satisfactorily in the way of consolidation; especially as a merely declaratory act on the subject would present great difficulties. Most "doubtful" statutes would require more than a mere declaration that they are in force or not in force; there must be explanation, reference, &c., such as could not well be inserted in a merely *chronological* list made without reference to subject matter.

The observations already made as to the waste of labour that would be caused by revision before consolidation, apply also to this question. The "doubtful" statutes could only be ascertained by a critical examination and comparison, and in many cases this might be entirely spared by consolidating first.

It seems to have been hitherto considered, that whatever is done in the way of revision is to be done by going straight through the statute book, without reference to the subjects of successive statutes. I think, however, that it is at least doubtful whether this is the best course. An isolated statute cannot be disposed of in so satisfactory a way, as when considered in connexion with the whole series to which it belongs; and I propose that if the task of revision is undertaken, there should first be a division of the statutes into *subjects*. It would not be difficult to make this roughly; and in detail each person employed could correct it while going through the groups assigned to him. It is also to be considered, that a practical legislature could hardly be induced to give its attention to any miscellaneous lists of statutes, made without reference to a particular subject matter.

It does not occur to me that there is anything further to suggest, until your Lordship shall have determined whether or not consolidation of particular groups of the statutes is to be undertaken.

As regards the second branch of the subject, namely, the preparation of bills to be brought into Parliament, I conceive that,—assuming a permanent Board is formed of competent persons, devoting their whole time to the revision of the existing statutes, and the consolidation of each subject under a separate head or chapter,—it is fairly to be expected that these persons will acquire not only a complete knowledge of all the provisions of the existing statute law, but the habit of framing bills with more precision than heretofore has been acquired by any particular class of persons.

Whether all bills should, in the first instance, be framed by such a Board, or whether, when brought into either House, the bills should be referred to the Board for revision or suggestion, is difficult to determine. It is, however, clear that although the mode of passing bills through either House would not admit of their being finally settled by a Board, yet I conceive much might be done in the original preparation of a bill, as to its scheme, the fitting it to the existing law, the suggestion of the aptest machinery, and of the completest technical language, which must, in any event, tend to save the time of Parliament and to render the measures more complete.

Probably in many cases the report of such a Board as I suggest, might lead to the conviction that the proposed measure was not required, having reference to the existing state of the law.

Much already has been accomplished in this direction. I believe it is admitted by all that the appointment of a standing counsel to the Home Office, to superintend the preparation of a certain class of bills, has led to great improvement in the framing of many of the most important bills which have of late been brought in. Again; the very careful examination that private bills and also estate bills undergo, both in the House of Lords and the House of Commons, has led to a great change for the better in their preparation.

But the most important change which has of late taken place was that effected by the system of Clauses Consolidation Acts devised, and for the most part prepared, by Mr. Booth, when holding the office of Counsel to the Speaker of the House of Commons; a set of Public Acts containing provisions, to be adopted when requisite, in railway and other private acts; such as the Companies Clauses Act, the Lands Clauses, and Railways Clauses Acts, passed in 1845, and those relating to harbours and docks; to markets and fairs; to gas companies; to commissioners of towns; waterworks; towns improvements; cemeteries; towns police; &c., passed two sessions later, when the working of the former had been tried: nothing in modern legislation has been so successful as these acts. I have had a rough estimate made of all the private acts which have passed since the date of the earliest of these statutes, down to the end of the last session of Parliament, and which have adopted any of them, as well as those for calling into action the provisions of the Public Health and Inclosure Acts, (which are framed on a somewhat similar principle,) for the purpose of ascertaining what saving of bulk they have occasioned; and on the assumption that where any of these acts have been incorporated in a special act, four fifth parts of the general act has been adopted, the number of folio printed pages saved by the adoption of these model acts, in about 3,000 private acts, is certainly more than 100,000: and it should be observed that this calculation only includes the acts which were passed; whereas I am informed that at least four

bills are printed and brought in for one which passes. In the Appendix, No. ., will be found a statement of the number of private acts which have adopted any of these model acts, and the length of each of the model acts, prepared by the Secretary of the Board, who made the searches.

In addition to this great saving in length, and the economy in copying, drawing, printing, and paper, there is the further great advantage that each act is framed on a uniform system, and that the settlement of any question of construction which has arisen or which may arise on one, will govern the construction of all the other acts in which the model act has been incorporated. I refer in detail to these measures, because I consider they involve considerations of great importance as regards future legislation, especially as I think one of the first acts of the Board should be a careful revision of the whole of the class of acts which I have referred to, and that it should be considered how far they may be simplified and extended; and, further, I conceive that similar general provisions on many subjects frequently occurring in public acts might be prepared;—as, for instance, general forms for recovery of penalties, and modes of appeal in different cases, on the plan of the two statutes 11 & 12 Vict. c. 42. and 43., &c. Something of this kind, to a certain extent, has also been attempted, though unsuccessfully, in the 13 & 14 Vict. c. 21.: there will be found some useful observations in one of the papers of Mr. Brickdale on the particular provisions of this act.

I have the honour to remain

Your Lordship's obedient Servant,

Lincoln's Inn,
12th August 1853.

H. Bellenden Ker.

To the Right Honourable the Lord Chancellor,
&c. &c. &c.

PAPERS

BY

GEORGE COODE, ESQ.,

ONE OF THE COMMISSIONERS FOR CONSOLIDATING THE STATUTES,

On the Operation of Statutes and its Registry;
On the Digestion of the Statute Law;
On its Consolidation; and
On the Form of Amendments.

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Recapitulation of Practical Suggestions.

1. *Complete a Register of the parts of Statutes in force* (35—45. 47.)
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2. *Complete a collated and expurgated Edition of the Statute Law in force* (46. 47.)
3. *Frame Digests of the law in force to aid legislation* (*Appendix* 1. *to paper II.*)
4. *Arrange in every case the matter in the order displayed* (54—85. 109.)
apply the same arrangement to the smallest fragments (87.)
5. *Express the matter in every case on the principles developed* (91.)
6. *Subdivide it into the minutest articles* (110. 111.)
7. *Keep in every case Permanent matter separate* (103—107. 121. 122.)
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8. *Improve Transitory matter by "consolidated clauses acts"* (108.)
9. *Amend in all cases by re-enacting the law amended*
and by Repealing it (121. 122.)
10. *Repeal in all cases by Separate Acts* (101. 102. 121. 122.)
11. *Avoid References by resorting to Consolidation* (18. 112.)
but when reference is unavoidable, use consistent designations (19.)
and cite explicitly (14. 15. 16.)
cite the Session by its beginning (14. 19.)
cite the Act by one distinct title (14. 19.)
12. *Avoid Adoptions* (112.)
13. *Amend Consolidated Acts in the manner indicated* (121. 125.)
incorporate amendments and promulgate as in (126.)
14. *Try all these experiments first on less important acts as occasion arises* (114. 123. 128.)
15. *Promulgate all acts with short titles* (14. 19.)
abolish distinction of 'full' and 'short' title (14. 19.)
or, if these are retained, let the Indexes recognise them (14. 19.)
16. *Let the Headings, Running Titles, and Title Pages of the Statutes at Large conform to the rule adopted for citation* (14. 16. 19.)

INTRODUCTORY OBSERVATIONS.

Subjects.

I HAVE the honour to submit, as my contribution to the labours of the Commission for consolidating the Statute Law, the following papers :

I. On the Collection of the materials for legislation or consolidation, their Collation and Connexion ;
   with an Appendix, being a specimen of a Chronological Register of the Statutes in force, their Duration and Interoperation.

II. On the Digestion of the materials for legislation and consolidation ;
   on their Analysis ;
   on their Recomposition ;
   on their Expression ;
   with two Appendixes ;
   the first,—being SUGGESTIONS as to the PREPARATION of COMPILATIONS of the EXISTING law, to precede or accompany BILLS in PARLIAMENT ;
   the second,—exemplifying the operation of Digesting, being a Digest of the Acts for the Relief of the Poor.

III. On Consolidation.

IV. On Subsequent Legislation, with a view to preserve the order and consistency of the law after Consolidation.

As to the inclusion of *future* legislation.

(1) Lest it should appear that the subject thus treated in connexion with current and future legislation extends beyond the due limits of our commission, it may be proper once for all, to justify the breadth with which it is here discussed.

It would be easy mechanically to exclude from the discussion all reference to future legislation, for the erasure of a few words in the following papers would effectually suppress all verbal reference to it ; but still the whole subject would, nevertheless, be involved as effectually, in spite of this seeming exclusion, as it would be in the most emphatic expression. For the function of legislation is essentially the same to-day as it was 1,000 years ago, and as it will be 1,000 years hence. The instrument by which it operates, language, may change in its fashion, and even in its terms ; but the principles upon which it was to be used at one time to ensure clearness, consistency, comprehensiveness, or compactness were the same as must be applied now, and as long as language exists, for the attainment of the same ends. And even as to the elements which the maker of a law has to operate on or to operate with, they always have, when known at all, synonymous names, and the same definition and the same value and place in a general order or in a methodical enumeration or collection. Whatever defect of method or enunciation has made any old law obscure, confused, ineffectual, or inconvenient, would make a future law so too. Whatever is ascertained as an improvement on an old law in form and expression, will be equally beneficial in application to a new one. Whatever method may be now found to be necessary and effectual to cure evils already accumulated, would not only cure but, when applied preventively, wholly eradicate the like evils in the future. In short, the order and expression of the law of the past, the present, and the future times, is essentially but one and the same thing, and there is no practical consideration pertinent to the one which is not equally so to the others.

It is not then through any ambition unduly to extend the scope of these remarks beyond the scope of my commission that they include equally the subjects of the digestion of the past and that of prospective legislation, but because in any remarks of real practical pertinency it would be a mere affectation of self-restraint to pretend to abstain from any part of what is intrinsically and inevitably one indivisible whole. By the necessity involved in an unreserved expression of a single subject, not by a free choice, these papers apply equally to the consolidation of the existing statutes and the composition of future statutes.

As to the exclusion of certain subjects;

(2) On the other hand, inasmuch as the consolidation of the Statute Law necessarily involves a considerable operation upon the body of Judicial Decisions which have interpreted it, it may seem to be an objection that these papers make little or no express reference to this mass of interpretation. But this in the main consists of matter implicitly involved in the operations, whatever they may be, to which the Statute Law, the occasion of all this interpretation, may itself be subjected. All this interpretation is necessarily applied in each instance to law in eâdem materiâ, and the questions disposed of generally are these:—Whether two provisions or only one apply to the matter in hand? If two or more provisions apply in terms to the same matter, but with different practical effect, which provision prevails? How far a subsequent statute prevails in this or that case over an earlier one? How far a general provision affects a more special one, and vice versâ? How discordant and disparate expressions are to be reconciled and applied together? How far defective expressions are to be completed, or too extensive expressions restrained? and the like. It is manifest as to all such questions that they arise chiefly out of two circumstances, both of which must cease to exist in exact proportion as consolidation takes place. For, when the whole of the statutory law in the same matter is consolidated in the same statute, no question of anteriority, posteriority, of actual or virtual abrogation, limitation, extension, or other modification in which succession in time is an element, can possibly arise; and when the co-ordination of parts or the generality or speciality of each provision is shown by its place and order in one statute, that visible co-ordination renders unnecessary and inapplicable all rules and all processes invented and applied to discover it when concealed by the dislocation of the matter in scattered and undigested records; and thus the elaborate system of rules of construction and the vast mass of decisions on this class of cases will lose their application when all provisions upon the same subject are cotemporaneously and methodically expressed in the same statute.

As to that mass of decisions which have supplied defects and limited excesses in the terms of statutes bringing within their operation cases not expressed, and excluding from their operation cases verbally comprehended in their terms, it is plain that all the cases so included or excluded should be considered at the same time and with the same view as all other practical changes to be introduced upon practical grounds into the consolidated acts*, on which occasion these decisions, so far as they are approved by experience, will serve as a predominating authority for a corresponding contraction, or extension, or modification of the terms of the Statute Law. These cases, then, should all be collected and included in the digest recommended in these papers. Such cases affecting the Poor Laws would have been so included in the Digest of Poor Laws appended to Paper II., but for the want of time to render it complete in this respect.

of the Common Law.

(3) But as to that more important independent substantive body of the Common Law, and the mass of authorities and decisions in which it is exhibited, very different considerations prevail. It is no part of the purpose of these papers to consider at all how this is to be affected. It is only conscious, intentional, avowed Legislation, and not Consolidation, which should be permitted to touch the substance either of the Common Law or of the Statute Law. Consolidation is not the substitution of one right, of one obligation, of one remedy, of one procedure, of one ministration, for another. This is Legislation—an operation requiring for its due performance all the information, all the deliberation, all the public concurrence, all the disposal of the public force, that our legislative institutions can command and apply. Consolidation is a very different operation; it has its definite subject matter provided for it beforehand, in terms selected, deliberated upon, and settled by the community and its appropriate agencies, and perhaps approved in practice by ages of experience. This matter is, perhaps, dispersed in very various quantities, at lesser or greater intervals; its expression may have all the defects incidental to language, aggravated by all the changes that language has undergone in course of time and change of fashion; it may be unsystematic, incongruous, inconsistent, even contradictory, and its order perverted in any degree. The task of the consolidator

* See Paper III. on Consolidation, p. 81.

is to collect these dispersed expressions, to put them in an order according to their analogies, and thus to place each expression in immediate juxtaposition to that which has the closest relation to it, and thus, again, by an immediate comparison, to show their relation, their analogy, their identity, or their incongruity,—by this to suggest and display to the practical legislator the defect in one expression, the excess in another,—the accidental exclusions of appropriate subjects from one rule, the equally accidental inclusion of incongruous subjects under another, brought into one view at the same instant,—the useless multiplication of alternative provisions for the one case, the absolute deficiency of the requisite and analogous provisions for another. This is the task of the Consolidator; feasible, indeed, by any single man fairly instructed and trained to the work, quite independently of public authority or power, but arduous and difficult enough in itself without any trespass on the domain of Practical Legislation; and when well performed this work, thus limited, will have supplied to the Legislator himself a vast field, a vast material, many useful suggestions, and great practical facilities for the exercise also of his appropriate function.

Exclusive reference to the Statute Law.

(4) The task of consolidation is simple in regard to the Statute Law, for so much of this as is of general importance is all contained within the limits of some 40 quarto volumes, and what is really in force constitutes but a very small part even of these. It is all already expressed in some terms, printed, and accessible in the very same letters to every man. However wide the differences in the interpretation that one man or another may put upon them, these terms themselves are still there in print, unchanged, and always producible to test the justness of every applied interpretation judicial or non-judicial.

It is widely wholly different with the Common Law, which consists in the principles exemplified in and deducible from the free usage of the community, and includes all that practice can possibly develope or scientific reason consistently apply to all cases arising in the whole course of time. Its operation is exemplified in innumerable text books and reports of decisions; but its terms and limits are nowhere laid down authoritatively, except only so far as it is excluded by statute. To fix the Common Law definitively in the language of this day, is to paralyze judicial interpretation, to arrest the expansion and application of its doctrines to the course of events and the developing circumstances of successive times. The legislature itself in England has never attempted it. Declaratory acts which appear sometimes to declare the effect of the Common Law, never in fact do more than include a doubtful, perhaps a new, case within its operation. Authors, counsel, judges, sometimes attempt to define its limits; and some of them have, in some instances, done it with more or less success; but the greatest success in this way compels acquiescence in the definition only just so long as the definition is found to be consistent with the facts and circumstances to which it comes to be applied. It is attacked, modified, overthrown, so soon as occasion demonstrates its further inapplicability.

To consolidate the Common Law then, is to change its present expansible character entirely, to render from the moment of that operation its interpretation and application a miserable construction of mere forms of words, instead of a development by induction, deduction, and analogy of all necessary consequences and all consistent inferences from principles manifest in known practice and decided cases, but as yet unrestricted by any fixed form of words. This would be, in fact, not consolidation, but a most extensive and unprecedented exercise of legislative power,—one as yet never arrogated by the legislature itself.

What the legislature has done, and can always do beneficially, is merely to take from time to time out of the domain of the Common Law so much as appears practically to require the application of another rule than that of the Common Law. This is usually done with all possible safeguards against hasty and excessive encroachment on its principles. But being so done the Statutory rule which supersedes the Common Law, being limited by the terms in which it is expressed, is susceptible of reconstruction, translation, division, analysis, and recomposition, as all other intelligible forms of words are, without danger, if proper care be used, either of extending or contracting its sense or operation. And this, which is constantly done with manifest advantage, is understood in these papers to be the sole object at present of the process of Consolidation; and accordingly the whole tenor of the observations in these papers is confined to the consideration how this statutory matter may

be best reproduced in a new statutory form without change of its effect or extent, and without encroachment on the Common Law.

Of Codification:

(5) Again, these papers stop short of the attempt to reduce the law into a systematic Code, or even to advocate such an attempt. In truth, the writer does not consider the object to be at present either feasible or desirable.

No doubt, a nation in which one homogeneous Common Law, developed by its own free usages in 1,400 years, administered universally and consistently by one undivided judicature, amended and expanded in all such a period by one undivided legislature, might, in some caprice or under some hallucination, resolve to have all the flexible and expansible principles of its Common Law fixed and cramped in the words and forms of a statute or code. But no such folly has ever yet, in fact, possessed even a village*, still less an empire thus happily circumstanced. The Roman edicts and codes before Justinian, and his Digest, and Codes, and Novels, were nothing of this kind. There was no common law in the multitudinous provinces of the Roman empire, and the Digest itself is but an undigested though meritorious collection of cuttings and scraps taken verbatim et literatim from the works of jurisprudential writers of more or less repute and authority; and the Codex is an appendix of occasional and arbitrary edicts of successive emperors, arranged with some method, but in no respect resembling a code such as is recommended in recent times. The French Code was a resource of necessity, imposed, not chosen, upon the breaking up of innumerable provincial and local customs, upon the sudden introduction of a common national legislature and common tribunals, and where there was no semblance of a pre-existing common law. It was such a case as the sudden extension of one authority throughout the Heptarchy might have been, if multiplied in its operation about sixfold, and is as little applicable to the present circumstances of England and its Common Law, the slow, deliberate, free, popular, and homogeneous product of 1,400 years of usage, legislative effort, political contest, and revolution of an undivided nation, and a concentrated legislature and administration. It would be out of place here to pursue this topic; but it seems safe to assume that, without clear and express commission to do so, it would be a rash usurpation of a most perilous function to attempt to reduce all the expansible and infinitely developable principles of the Common Law of England into the terms and forms expressive of the conceptions of a compiler of the year 1853.

and Consolidation.

(6) It is assumed then in these papers that the Statute Law already reduced to terms and producible, is to be cleared of manifest superfluities, reduced to order by a methodical arrangement without change of parts, and that a consistent construction as to language is to be adopted also, so far as this involves no change in effect, but that all such changes in effect, whether in the Statute Law itself, and still more in the Common Law, however palpably justified by the process of consolidation, are still to be left to the ordinary course of practical legislation. In fine, these papers contemplate, not the policy or the practical motives of legislation, but only the form and the expression in which the Statute Law may be most conveniently and best exhibited, either in one operation, as in a consolidated Act, or in successive operations in the amendments, which circumstances and experience from time to time require. They recommend no change in substance whatsoever, but, on the contrary, aim at the reproduction only of the identical effect of the existing law, and the literal and implicit and ministerial fulfilment of whatsoever may be the future and varying purposes of the legislature.

What simplification and condensation attainable; —

(7) Having so limited a purpose as these papers, it is somewhat beside the question here to inquire, whether codification, in the sense in which most of its advocates recommend it, be, in truth even a possible operation. It seems to many to be a very desirable thing, that the whole body of the law of a country should be reduced within the compass of a portable volume—if possible, to a few compendious rules of the utmost generality and simplicity of expression; and it is to a systematizing mind an easy and pleasant exercise

* Some authentications of local customs in England,—the homologation of local customs in France, Germany, and Flanders are not examples of the Codification of a Common Law. They are merely the authentication of those peculiar local customs which differed in each instance from the general law otherwise prevailing in the same locality.

to frame such abstractions as are thus contemplated. Indeed, the less the experience, and the less the materials, and the fewer the occasions for practical legislation or jurisprudence, the more simple, the more general is the law and the jurisprudence of every community. And when population is increased, and interests are complicated and occasions multiplied, the great and often the intolerable evil of the law has been, that rules of extreme simplicity have been still applied with a too simple and rigid logic, and extended by too subtle and speculative refinement to multitudes of cases practically requiring special, peculiar, and appropriate and varied provisions.

Speciality,—

On the other hand, the characteristic of our modern English legislation is, that it is sensible to all the influences of public and private interest,—that it rapidly and incessantly varies the law for every variety of interest, for every change of circumstance,—that, however often it may fail in its intention to fit a class of cases, its efforts to modify and adjust the law to the exigencies of every interest are persevering and unremitting. It is the resulting confidence that every proved grievance will, if possible, have its remedy,—that every circumstance which renders the letter of the law oppressive will be admitted as a reason for special modification of the law,—that justly begets a sense in every man that the law in England is not a tyranny,—is not an oppression, but is his personal individual protection and defence.

—before Generality.

Bulk is no doubt an evil; multifariousness is, no doubt, inconsistent with simplicity; but bulk and multifariousness are inseparable from opulence and varied and multiform utility. In legislation, in jurisprudence, as in all other practical arts, we cannot have, at the same time, the simplicity of abstract science and the variety of appliance required by an advanced and varied condition of life. Simplification of expression is the proper aim of the philosopher and the professor; but special utility, neatness, accuracy, fitness of adjustment to every individual's circumstances and wants, are the proper aim of every practitioner in every art. To abandon variety and completeness of practical detail, in order to reduce the mass of the law, or attain a formal simplicity of expression, would be, at present, both a premature and a retrograde step. The extensive practical changes recently made, and still making and impending, are enough to prove how premature it would be to formularize, however skilfully, the rules or principles of the existing law, which is still in a course of rapid evolution and of varied improvement in detail, in which the consideration of formal congruity is subordinate to the more immediate object of realizing the greatest amount the circumstances of the day allow of plain working practical amendment.

Natural Process Induction;—

(8.) And inasmuch as we possess in our institutions an instrument of legislation in the highest degree impressible, active, and practical,—and inasmuch as the extent, importance, and variety of our interests are such, that all legislation is instantly subjected to innumerable practical tests—and inasmuch as every defect is immediately submitted to jurisprudential and judicial scrutiny, and to unrestricted public discussion, and if otherways incurable, to legislative amendment,—we do happily possess the most efficient possible means for realizing, experimentally, practically, and inductively, whatever the experience and intelligence of man may show to be desirable; in fact, the whole process of discussion, general, forensic, parliamentary,—the whole course of judicature and legislation,—is one great process of legislative induction, by which particulars are incessantly collected and arranged, and brought more and more precisely and certainly within their appropriate laws, and those laws extended and corrected with infinitely more certainty, than that which the ablest systematizor could effect by the simple aid of the most enlightened and logical speculation.

—and Generalization;—

And this practical process of induction of particulars is even more unerringly systematic,—tends more surely to sound generalization,—than any systematic speculation whatever. Every individual man's interest is identical in most respects with every other man's; and every man seeking to obtain for himself the institution or application of a rule of law most beneficial for himself, does in fact seek for a rule beneficial in a like degree to all others in like circumstances. Every forensic discussion seeks, on one side, to

place a given case within the operation of one rule; on the other side, to place it within the operation of another. Every judicial decision does place some one particular case or some species of cases within one rule or within another; and every additional particular, thus placed under the operation of a rule, serves to complete the rule in its range and in its definition. In no case does a judge make new rules; and in no case, where his decision is inconsistent with the combined analogies of the case and of the rule, can his decision be sustained. And in legislation the process is similar. Each case proposed for new legislation must be shown to be included in the existing law contrary to the real utilities and analogies of the case; it is never taken out of the old rule but upon apparent proof of a distinction in fact requiring a distinction in the rule. Thus the tendency both of Jurisprudence and Legislation is inevitably to include all cases under rules analogous to them; to break down and abolish exceptions not justified by real distinctions; to enlarge exceptions into rules, when such exceptions may consistently be converted into rules; to extend the minutest experiments in legislation, when successful, to all the cases in which a similar success may be anticipated; and so, in fact, the law is undergoing in experiment, in discussion before our tribunals, and in parliament a constant analogizing process, tending to the widest possible useful generalization.

—impeded by the practice of Reporting in Jurisprudence;—

(9.) But although this be the real practical process, it is unfortunately rendered obscure, and indeed seriously obstructed and retarded, by the present mode of registering the result. It is unfortunate, that every step in the establishment and extension of a rule should only be registered, as it now is. The judicial result, giving effect, consistency, and definiteness to a rule, is overlaid by the narrative of the circumstances of the case, the recital of the pleadings, the report of the arguments of the counsel, and of the reasonings of the judge; and the small modicum of result, the effective judicial decision, thus encumbered, reported by one reporter, is separated by an indefinite number of volumes of similar reports, and by intervals of years and ages, from its nearest analogue, the next judicial decision that extends or qualifies it. And just so the act of parliament which extends or limits an old rule, or introduces a new one, instead of being expressed as part of the terms of the rule thus modified, or in proper co-ordination with analogous rules, is registered in the Statute Book according to the accidental date of its passing, encumbered with preambles and provisoes, and non-obstante clauses, dislocated from the body of law of which it is logically a member, and cast locally into the midst of others having no discoverable connexion with it. Thus we find that a rule established and defined by centuries of experiment and discussion, and perhaps elaborated with perfect self-consistency, is registered in disorderly and cumbrous fragments, in a score of Statutes, and a hundred reported cases.

—and of promulgating Statutes

It is this unnecessary and mischievous encumbrance of the rule, by the mode in which it is thus accidentally registered, that is most justly to be complained of. This it is that most impedes legislation, and so often causes it to be obscure, inaccurate, and inconsistent. This makes jurisprudence so laborious, and so often uncertain in its progress, and conceals, in husk and chaff, the precious kernel of the law.

Remedy attempted.

(10.) The first object, then, of the course proposed by these papers is, to ascertain the effect of the matter of the Statute Law, thus overlaid and dislocated, and the relations and connexion of all its parts, and to present them in intelligible language and lucid order. Besides the immediate popular utility involved in this operation, it will necessarily tend to enable the legislature, on all subsequent occasions, with increased facility, comprehensiveness, and effect, to preserve in its future Acts the connexion and order once realized, and to proceed directly, and with the least possible incumbrance, in its natural course of supplying all defects as they become visible, removing apparent anomalies, reconciling apparent inconsistencies, and by degrees realizing, by the light of experience, that minute, detailed, and pervading practical agreement between the laws themselves and the interests they protect, which is the only consummation of simplification and system worth consideration in the development of a body of practical law.

August 1853. GEORGE COODE.

I.—ON THE COLLECTION OF THE MATERIALS FOR LEGISLATION OR CONSOLIDATION, THEIR COLLATION AND CONNEXION.

With an Appendix, being a Specimen of a Chronological Register of the Statutes in force, their duration and inter-operation.

Enquiry as to the Law in Force;—

(11.) Whatever the occasion upon which the existing state of the law can come in question,—whether it be to comply with it or to enforce it,—to advise upon it,—to administer it,—to amend it,—or, as on this present occasion, to consolidate it,—the first and almost the only matter of consideration is,—What is the law in force at this time?

Confining our attention to the Statute Law, and more especially to the present object of Consolidating or Amending it, it is obvious that the correct Consolidation of any part of it is simply impossible, unless the whole of the law in force upon that part, at least, be known, and the connexion, relation, and mutual operation of its elements be accurately ascertained.

As to Amendments, they are in fact commonly attempted, and even, with variable success, effected, without this accurate and connected knowledge; but the chief failures of such amendments,—their defects, excesses, incongruities,—are mainly derivable from the fact that they are framed without the requisite knowledge, and without an accurate conception of the law to be amended.

—its difficulty;—

(12.) Both the necessity of this knowledge, and difficulty of obtaining it, are increased yearly by the sessional addition of a volume to the extant legislation of 600 years. The dispersion, through forty cumbrous volumes, of the matter which is in force amongst that which is not in force, without distinctive marks, or indication of either fact, is alone sufficient in most cases to make the requisite knowledge unattainable on any sudden occasion.

—assistances,—

—extrinsic;

Some assistance in ascertaining the matter of the law is given by Indexes; but these are necessarily framed with great generality of expression, seldom indicate detail, and can by possibility only refer to the law in force and passed before the time of their preparation. The indexes to the sessional or periodical volumes of the statutes only respectively refer to the contents of each separate volume, and not to the connection of those contents with the whole series. More comprehensive indexes are only rarely prepared, and are still more general and meagre in their indications. Digests are none of them exhaustive of the whole contents of the Statute Book; and Text Books, though often exhaustive of the law upon particular subjects, are only compiled upon such particular subjects as happen to interest the compilers, or promise a profitable sale to the publisher.

Thus, although every provision of the law may be ascertained by every one who can spend upon it skill and sufficient time and labour, it is not readily accessible to any man, and is wholly inaccessible to the generality of men.

—intrinsic;—

The intrinsic aid afforded by the statutes themselves is, through their great number and irregular dispersion, necessarily small. A statute may, and sometimes does, indicate the existence and connexion of other statutes in force when it passed; but it never can possibly indicate the most material of all facts, viz., whether it has itself been subsequently limited, extended, modified, or abrogated by a later statute.

No aids, intrinsic or extrinsic, can give a satisfactory assurance of the existence and relation of any statute law upon any subject. Nothing can give this assurance but the ascertaining of the last enactment, and the tracing the whole series backwards to the earliest law that remains in force. When the series of enactments on any subject is so traced, and their connexions ascertained, the matter is at hand for use.

—register of investigation;

When once so ascertained and connected, if a Record of this Connexion were made and preserved it would facilitate the discovery of the whole series of facts, whenever they might be again required, and would at once indicate the matter for such an operation as amendment or consolidation.

But the operation is attended with more difficulties than are justified by the nature of the subject.

Identification of the matter;—

(13.) The first step in every investigation is to identify the matter to be investigated and operated on. There are no means whatever, short of the absolute exhaustive examination of the entire Statute Book, by which the necessary identification of acts can be made certain.

—as 'Public General,'

'Local and Personal;'

In the first place the public acts are promulgated in two chief divisions, as 'Public General acts,' and as 'Local and Personal acts.' It is never certain that the matter of the most public general description will not be found in the division of local and personal acts, and matter in the strictest sense local or personal is constantly found in the division of public general acts.* Thus the Court of Chancery and the Office of Examiner of the Court of Chancery is a matter of a nature as 'public and general' as can well be conceived; and, accordingly, most of the acts relating to it are placed amongst the public and general acts; but two of those acts, in noway distinguished by their less public and general character, the 50 G. 3. c. clxiv. and the 49 G. 3. c. lxix., are placed amongst the local and personal acts. To complete the difficulty and confusion, the mode appropriated for citing the one class is often used to cite acts in the other, as in the instance just given, where the 50 G. 3. c. clxiv. is cited in the margin of the 16 Vict. c. 22. s. 1. by the mode denoting that it is a public general act, namely, as 50 G. 3. c. 164.,—a misdescription the more sure to embarras, as the error in fact corresponds with the reasonable expectation of the reader. In like manner, the 3 G. 4. c. cvi. is cited by the 6 & 7 W. 4. c. 37. s. 1. as the 3 G. 4. c. 106.†

The other class,—local and personal provisions,—are constantly found in the public and general acts, in many cases quite excusably, inasmuch as such provisions are for the most part merely exemptions in favour of particular persons and places from the operation of a general law into which they are inserted by way of salvo; but even in this case the practical result is, that we can with no more certainty seek for local and personal provisions amongst the acts classed as local and personal than we can seek for all public and general provisions amongst the acts classed as public and general.

—by its usual Designations;—

(14.) The designation by which statutory matter is now cited and identified is the Year of the Reign in which it is enacted, the number of the Chapter or Act, and the Title of the act; and, in more detail, by the numbers of the Sections into which the act is divided.

As to all these the practice is anomalous, and the indications constantly misleading.

—by congruity of matter;

Thus it is the commonest practice to suggest, that some more acts exist, without using any designation whatever, except the general sense of the context, by which such acts may be discovered,—as is common in *non obstante* clauses, "any act or acts to the contrary notwithstanding,"—as in the 15 & 16 Vict. c. 23., where one act for the Union of England and Scotland comprising very various provisions, and containing 13 sections and the whole 25 articles of union,—10 closely printed quarto pages,—is referred to only by the date and chapter, leaving it very difficult to discover what provision (qu. s. 1. art. 22?) is meant, and where "other laws and usages to the contrary" are suggested as existing, but are no otherwise indicated, and are in truth very problematical entities. In the 15 & 16 Vict. c. 77. s. 4. it is manifest that the draftsman did not know whether he was amending only one act or more than one, and the reader has to learn what the law-maker could not tell him. The acts of every session abound in similar hypothetical repeals of "all

* It would be easy to find more striking examples to illustrate these papers than those offered in the text; but in order to avoid exaggeration, and to present only fair illustrations of practical defects prevalent in our present legislation, no instances are given in these papers except such as have occurred unsought in the course of the preparation of the Register appended to this paper, and the Digest appended to the next paper. Older acts, and those on more obscure and out of the way subjects, abound in amusing anomalies, which, however, prove little or nothing as to the ordinary course and exigencies of our current and future legislation.

† See on this subject an exemplary case in the note to par. (14.) on "Short Titles."

acts to the contrary," and adoptions of all acts applicable, as the act of this session the 16 Vict. c. 5. s. 5., which adopts "all provisions, &c. now or hereafter in force."*

A still greater denial of the means of identification is involved in all those cases where acts are superseded, amended, or affected, without even an indication of their existence, as in 16 Vict. c. 23., which supersedes at least the 12 G. 1. c. 2., the 6 G. 2. c. 28., and the 24 G. 2. c. 2., without any notice of the fact.

But even where there is a manifest intention to point out the act, these designations are so anomalous, and subject to so many errors in their use, that in a large proportion of cases silence itself were less misleading. The Session in which the act is passed constantly changes its denomination during its course, commencing like the present session as the 16th Vict., and continuing as the 16th and 17th. The acts passed to chapter 31 have been designated as of the 16th Vict., but these selfsame acts will at the end of the session be promulgated, with all the other acts of the session, as of the 16th and 17th Vict. But the greatest confusion in the designation of acts by 'the session' occurs at the period of the demise of the Crown; as occurred at the beginning of the present reign, which took place in the midst of a session. The first acts of that session were correctly printed and published as of the 7 W. 4., the last as of the 1 Vict., but when bound up in a volume all these were headed and every Act mis-described as of the 7 W. 4. and 1 Vict., and are commonly so cited, although now and then a too scrupulous draftsman will cite them accurately, and so make the Acts he refers to almost undiscoverable. This confusion, however, was further increased in the Acts of the next session, which began before the first year of the reign had expired, and the Acts passed within the remaining fragment of the first year were again correctly described and published separately as of the 1 Vict., so that there are two different series of Acts published with precisely the same numbering of the chapters and the same description of the session. These latter Acts, however, when bound up, have also their heading or designation changed, and incorrectly, to that of the 1 & 2 Vict., and are commonly so cited.

by "the Session;"

Independently of the confusion caused by this inconformity of the duration of the sessions with unbroken years, either of the reign or of the era, a new source of confusion has been recently introduced in the shape of "short titles," including the year of the enactment according to our era, by which practice the reader is compelled to translate the year of the era into the year of the reign, and then again to ascertain whether one or more sessions occurred in the same year, before he has the means of identifying in the Statute book or copies of Acts as now published the Act so cited.

by "the year" of the era;

Of misleading indications of Acts, by the year and chapter and section, these instances were encountered in the course of three days work:—The 33 G. 3. c. 37. cites in its title the 31 G. 3. c. 29. correctly, but in its preamble cites it as passed in the "thirty-second year, &c.;" the 52 G. 3. c. 38. and also c. 68. cite the 6 G. 3. c. 53. as passed in "the thirty-sixth year, &c."; the 55 G. 3. c. 8. in the title cites the 43 G. 3. as the "thirty-fourth;" the 1 & 2 G. 4. c. 50. s. 1. in the text pretty evidently describes the 10th and 11th sections of the 59 G. 3. c. 36., but in the margin cites only s. 11.; the 7 G. 4. c. 49. s. 3. cites the

examples

* Mr. Stamp, in his excellent *Index to the Statute Law of England*, (2d Ed.) p. 37, has these observations upon the Bankrupt Law Consolidation Act 12 & 13 Vict. c. 106, which are equally pertinent to many other so called consolidations:—"Few Acts have been passed having greater pretensions than the Bankrupt Law Consolidation "Act, 1849. It was held up as a model of consolidation and completeness, and, judging from the style in which it "was spoken of, it might have been supposed that within its four corners every word of the Statute Law of Bank-"ruptcy was to be found. Such a supposition, however, would be very erroneous. The Act useful as it is, if regarded "as an experiment in codification, cannot be pronounced a successful one. On examination of the particulars brought "together under this title, it will be found that while four Acts have been entirely repealed and *seven* partially so, "there are provisions relating to the bankrupt law still scattered through more than *thirty* statutes antecedent to the "Consolidation Act in 1849. Some of these scattered provisions, perhaps many of them, must of necessity have been "left untouched, but there are others which unquestionably ought to have been re-enacted, or in some way noticed, in "a professed consolidation of this branch of the law. There are other anomalies in the Act for which it is difficult to "account, except on the supposition that certain existing enactments were actually unknown to the framers of this "Act. How else, for example, are we to account for the re-enactment (mentioned in note (*a*) page 34 *ante*) of the "4 & 5 W. 4. c. 40. s. 12. giving priority to debts due from any officer of a *Friendly Society* while no notice is "taken of the corresponding provision of 3 & 4 W. 4. c. 14. s. 28. with regard to the officers of *Savings Banks*. Acts "of Parliament, especially modern ones, are difficult enough of construction when open before the lawyer, but the "difficulties of the Statute Book are greatly enhanced when, through unskilful and inaccurate draughtmanship, it is left "uncertain where the actual letter of the existing law is to be found. It is, apparently, because the framers of some "modern Acts of Parliament despair of certainty in particularizing the statutes affected by their proposed changes, "that they have adopted the loose, and withal useless, plan of repealing (as in the statute now remarked upon) "besides specified Acts 'every other Act, and such parts of every other Act as shall be inconsistent with this Act,' "thus avowedly leaving it to judges, practitioners, and students to grope for as best they can what our lawmakers "themselves have given up in despair. Law reformers would do well to to look a little more carefully to form as well "as to substance, for their labours would be incalculably more useful if made available to the simplification, instead of "adding to the difficulties and entanglement of the Statute Book."

42 G. 3. c. 93. as "passed in the forty-third year of the reign," &c.; the 11 & 12 Vict. clearly repeals in the text the 24 G. 2. c. 44. ss. 1, 2, 7, and part of 8., but in the margin cites only ss. 1, 2, and part of 8.; the 14 & 15 Vict. c. 92. s. 26. cites in the text "an "act passed in the fifth year of the reign of King George the Fourth, chapter fifty-three," (in words at length), and in the margin as the 5 G. 4. c. 43., which Act is wholly undiscoverable in the statutes of the year, but was at length found to be the 6 G. 4. c. 43.; the 14 & 15 Vict. c. 93. s. 43. repeals both the 69th and 70th chapters of the 12 & 13 Vict. c. 69. by their titles in the text, but in the margin these are reciprocally interchanged, 69 being placed where 70 should be, and vice versâ; the 16 & 17 Vict. c. 100. s. 11. cites the 6 & 7 W. 4. c. 86. as "chapter eighty-five"; the 42 G. 3. c. 50. s. 1. cites in the margin the 42 G. 3. c. 15. for c. 25.; in the margin of the 31 G. 2. c. 30. the 3 G. 3. cc. 6. 11. are cited as of the 3 G. 2. Such inaccuracies of indication appear to be innumerable.

As to designation by citation of the Title of the Act, its cumbrousness has always been felt as an evil, especially in the times when titles of from ten to twenty lines in length were frequent. It is still common to cite Acts with long titles by but a part of the titles, and sometimes this not the first or most conspicuous part of the title, by which the citation, though shortened, is proportionally obscured, as in the 8 & 9 Vict. c 126., which cites the 5 & 6 Vict. c. 57., which has a title five and a half lines long, as "an act continuing the Poor Law Commission."

by the "short title."

The recognition of the cumbrousness of this mode of designation has led to the adoption of the plan of declaring a "short title" to be a sufficient mode of designation, and it certainly sometimes saves some words; but for want of being consistently carried out it has already made at least as much confusion as it has saved. It is not enough, to declare that the title, "The Metropolitan Sewers Act, 1851," shall be a sufficient designation; it is further necessary that the acts should be printed, intituled, and published as of the year 1851, that the running titles should contain the year of the era and not of the reign, and that the indexes should recognize such "short titles;" and it is obviously desirable that if this mode of citation is authorized at all, a self-consistent use of it should be enforced, at least within the limits of the same act. As it is, the licence encourages negligence in the draftsman in citation, and actually confuses the reader, who can find no such title either in index or running title of the volume, or at the head or in the body of the act itself. Thus the 15 & 16 Vict. c. 85. s. 43. cites "The City of London Sewers Act, 1848," and "The City of London Sewers Act, 1851;" the first of which designations is apparently meant for the 11 & 12 Vict. c. 112., "an act to consolidate and "continue in force for two years, and to the end of the then next Session of Parliament "the Metropolitan Commissions of Sewers;" the second, for the 14 & 15 Vict. c. 75., "an act to amend and continue the Metropolitan Sewers Acts;" but this is not discoverable by any aids whatever in the title of the volume of the particular acts, in the table of contents, or in the indexes.* In the "Index to the Statutes" for the 11 & 12 Vict. is no such word as "city," nor "London;" but there is a title "Sewers," and the references under it relate only to an act not here in question, the 12 & 13 Vict. c. 50.; at the end, however, of this title, in the index, are the words "see Metropolitan Sewers," and under these words the act required, and its contents, are indicated. A similar search for "The City of London

* Here is an error, the discovery of which I owe to Mr. Coulson's kindness. I leave the text uncorrected, because the error is itself instructive, and indeed confirmatory of the general observations.

There are in fact two Acts, such as are cited. One of these is printed in the 4° edition of the Statutes at Large (that used in this work), in extenso, amongst the 'local and personal Acts,' intituled of the 11 & 12 Vict. c clxii. "An Act to provide "for the sanitary improvement of the City of London, and the liberties thereof; and for the better cleansing, *sewering*, "paving, and lighting the same." This Act, in its full title indicating so small a relation to sewers, in its 4th section authorizes the use of the short title "The City of London Sewers Act, 1848." But there is no such title referred to in the list of titles prefixed to the volume, nor in the index, nor anywhere else. The Act thus inserted amongst 'Local and Personal Acts,' itself recites and repeals in its first section four Acts cited as 'Public General Acts,' viz. the 19 Car. 2. c. 3., the 11 G. 3. c. 29., the 33 G. 3. c. 75., and the 4 G. 4. c. 114., not on the principle omne majus continet in se minus, but apparently on the new principle minus continet majus. Why some of these Acts relating to the same district should be 'Public and General' and this 'Local and Personal,'—why this and the Act of 1851 relating to the City of London,—the legal Metropolis,—should be 'Local and Personal,'—while the similar Acts called "Metropolitan Sewers Acts," just as much limited to a district, although a larger one, should be 'Public General'—is a subject for question under a previous paragraph (13), and is hard to resolve. The only reference to this Act in the index is under '*Local Acts*;' thus, "*Local Acts*. LIGHTING AND OTHERWISE IMPROVING TOWNS AND OTHER PLACES. "24. *London*, cleansing, &c., 11 & 12 Vict. c. clxiii.," affording no suggestion of "Sewers" whatsoever.

The other Act referred to is apparently the 14 & 15 Vict. c. xci., intituled "An Act to continue the City of "London Sewers Act, 1848, and to alter and amend the provisions of the said Act." Only its title is printed amongst the 'Local and Personal Acts;' but it is probable that the designation of the Act by its short title is authorised. It is not referred to by its short title either in the List of Titles or in the index, and is only noticed in the index under this head, "*Local Acts*.—TOWNS, IMPROVING. 43. *London*. Continuing Sewers Act, '14 & 15 Vict. c. xci.'"

Sewers Act, 1851," leads to precisely similar results, and the discovery of the 14& 15 Vict. c. 75. But the confusion does not end here. There is no such act discoverable as "The City of London Sewers Act," for either 1848 or 1851, and there is no authority discoverable for calling any act by such a title. Even the Acts designated as "The Metropolitan Sewers Acts" are so designated in defiance of their real titles, and without any authority whatever in any of the series of the acts for the use of a "short title." (See titles to 12 & 13 Vict. c. 93. and s. 18., 14 & 15 Vict. c. 75., 15 & 16 Vict. c. 64.) This instance is given in preference to others equally striking, because it is manifest, from the terms of the 15 & 16 Vict. c. 85. s. 43., where the title "City of London Sewers Act" is used, that the draftsman actually had the acts so miscalled by him under his eyes at the time.

(15.) Although in the nature of things it would seem that the process of identification of the law in question should, in all cases, precede its citation, or its subjection to any operation of amendment or repeal, it is far from being so in our practice.

References to connected matter;

Where a succession of enactments on one subject remains unconsolidated, the later amending acts must necessarily refer to the former by implication or by express citation. Both practices prevail in about equal proportion, and both involve great trouble, uncertainty, and frequent cause of error.

—implicit

Where the reference is not by express citation, it casts on the reader the labour of ascertaining whether there is any statute so affected, and of discovering it, and the extent of the modification. Thus in the acts of last session the Common Law Procedure Act (15 & 16 Vict. c. 73. s. 148.) abolishes writs of error, and (s. 168.) proceedings in ejectment; cap. 77. s. 1. abolishes the office of the Lord Chancellor's secretary in bankruptcy; s. 4. amends some act or acts not cited; s. 11. abolishes the office of clerk of enrolments in bankruptcy; cap. 80. s. 1. abolishes the office of master in Chancery cap. 86. s. 2.; abolishes writs of subpœna and summons in Chancery; s. 19. abolishes commissions, &c. to take pleas within the jurisdiction of the court; cap. 87. s. 11. adopts the provisions of the Stamp Acts; s. 23. abolishes various offices in Chancery; in the present session (16 Vict.) c. 5. s. 6. adopts all the stamp laws now or hereafter applicable to the case described in it. All these enactments, and a multitude of the like in every session, affect statutory provisions not expressly cited, and require, for the understanding of their full effect in themselves, or upon preceding legislation, that the reader should ascertain for himself what are the laws affected. Sometimes, as in the case of the Master's office in Chancery, they are a long series, only to be ascertained by searching the statutes of many sessions and some centuries. But this careless practice of operating on the pre-existing law without reciting it does not positively misdirect the reader, it merely leaves him, without direction, to his own or other resources, whatever they may be.

—express;

(16.) The other practice, of referring by citation, its looseness, and the errors incidental, have already been sufficiently illustrated.

examples of express references;

The fashions of reference differ in all degrees, from the absolutely tacit or implied to the most verbose and supererogatory.

Some instances of extensive amendments, repeals, and abrogations, effected without the slightest suggestion of the law affected by them, have been mentioned. The first degree of explicit recognition of the previous law is in those comprehensive general terms, in constant and general use, such as "all acts (without instancing any) inconsistent with this act," 14 & 15 Vict. c. 93. ss. 43, 48.; "all and every act relating to, &c.," 6 & 7 W. 4. c. 37. s. 1., which are equivalent to referring to the whole of the Statutes at Large. These comprehensive references often do not mean all that is said, but in fact mean no more than what is otherwise expressed as "so much of every act," &c.; for many acts relate to such a subject, and contain also other matter wholly foreign to it, such as the miscellaneous acts, "to continue several laws," &c., and containing various repeals and amendments, like the 22 G. 2. c. 46., 1 G. stat. 2. s. 26. ss. 4–7., 3 G. 2. c. 29. ss. 1–3, and the Assize of Bread and Ale, 51 Hen. 3. c. 46. and it is never deliberately intended that a formula like that of the 6 & 7 W. 4. c. 37. s. 1. should affect the whole of such acts, both as to what is and what is not within the purview of the reciting act. These comprehensive forms have sometimes a specious justification in the fact, that the acts or

hypothetical;

parts of acts to be affected are numerous, or hard to find; but even this excuse fails in such cases as that in the 15 & 16 Vict. c. 77. s. 4., where reference is made to a law so recently consolidated and so accessible as the Bankrupt Law.

Sometimes the range of effect is limited by the definiteness of the related particular, as where it is declared that "judgment shall not be given that any person do stand in "the pillory, any law, statute, or usage to the contrary notwithstanding" (56 G. 3. c. 138. s. 1.); although it is uncertain what statutes are altered, it is still clear, whenever any of these is discovered, to what extent precisely they are altered.

But the evasion of the draftsman's duty in some of these instances is most inconsistent, and, indeed, unpardonable; for instance, the 5 & 6 Vict. c. 122., consisting of 94 sections, repeals, by s. 2., all acts at variance with it, so that we can only know what is repealed by reading 94 sections, and comparing their effect with the previous law. But all the provisions of this act which would thus operate to repeal others are themselves repealed by the 12 & 13 Vict. c. 106. s. 1.; and thus, in order to know what is repealed, we are still obliged to refer to more than ninety sections of repealed matter.

This hypothetical designation, by reference to the possible "consistency" or "inconsistency" of enactments, is the most evasive of all fashions of designation, and the cause of the utmost uncertainty, as regards the state of the laws intended to be affected, as to their being or not being so consistent or so inconsistent as to be affected in the manner declared. It should never be permitted to the ignorance or idleness of the draftsmen so to elude a duty, and to cast it in so aggravated a form on all the rest of the persons to be concerned.

by description of subject matter;

The next degree of explicitness and distinctness in citation is by description of the subject matter; and this mode is still a constant cause of difficulty. Thus when the Revenue Acts, as they commonly do, declare that certain "duties shall cease," or that certain "bounties shall cease," such declarations still leave in force an indefinite quantity of other provisions in previous acts. For instance, where the 43 G. 3. c. 68. s. 1. repeals acts quoad the duties authorized by them to be taken, large fragments of other matters, such as repeals operated by those acts, and the like, still remain or appear to remain in force, as in 41 G. 3. c. 89. s. 1., and 42 G. 3. c. 24. ss. 1, 2, 3, 4, and 42 G. 3. c. 95. ss. 1, 2, 5, 9, 10.

This mode of reference often effects much more or much less than the draftsman has in view, as where the 1 & 2 G. 4. c. 50. s. 1. repeals so much of the 59 G. 3. c. 36. as "relates to the weight of bread," it clearly repeals both sections 10 and 11, but refers in the margin only to s. 11.

The great abuse of this mode of reference is, that it often necessitates a search throughout the whole of a long act or series of acts, when in fact only the smallest part of such act or acts corresponds with the description, or is affected by it; as when the 14 & 15 Vict. c. 92. s. 26. refers to "so much," &c. of the 49 G. 3. c. 84., it refers to a whole act of 34 sections, when only one section, the 30th, is meant; to 186 sections of the 6 & 7 W. 4. c. 116., when, as it would appear, only 7 or 8 are meant; to 158 sections of 7 & 8 Vict. c. 106. when only 3 seem to be meant; to 21 sections of the 11 & 12 Vict. c. 28., when only the 16th and 17th are meant. The 14 & 15 Vict. c. 55. s. 17. refers in terms to two entire acts, and in effect repeals but five words in them. In the same way the 14 & 15 Vict. c. 67. s. 1. refers to the whole 31 sections of the 12 G. 3. c. 61., but only affects five words of the whole Act; the 14 & 15 Vict. c. 71. repeals three words in the 51 G. 3. c. 115.; and when the 14 & 15 Vict. c. 102. s. 3. refers in the like manner to the whole 40 sections of the 20 G. 2. c. 38. it only means to affect four lines in s. 1. In this instance this is the less excusable, inasmuch as the same act, 14 & 15 Vict. c. 102., repeals parts of three other acts by a definite reference to the numbers of the very sections repealed.*

* The same 14 & 15 Vict. c. 92. s. 26. repeals parts of the 9 G. 4. c. 55, of the 9 G. 4. c. 56., of the 10 G. 4. c. 34., by a description running through the whole extent of these acts; the 8 & 9 Vict. c. 126. s. 47. by a description which refers indefinitely to the whole act, 5 & 6 Vict. c. 57., consisting of twenty sections and a schedule, repeals in effect but about one fifth part of section 5; and this in a most obscure place and manner, and without marginal reference or indication.

We may pass over many minor varieties in the mode of indicating statutory provisions, all which varieties, however, commonly prevail without any special cause or justification for any variation, and each of which, so far as it differs from the one best mode, is in the same measure condemned; and we may proceed to the opposite extreme,—the verbose and cumbrous practice of reciting, ipsissimis verbis, the provisions to be affected. It is a practice which if followed out to its full extent would manifestly leave no room for doubt as to the very matter to be affected. It would perfectly identify the provisions referred to. Its evil is its extreme cumbrousness, and this very commonly causes the draftsman to shrink from an unqualified adoption of it, and he usually contents himself with reciting the principal matters, leaving incidental and consequential provisions to the effect implied by the operation. Thus the 15 & 16 Vict. c. 87. s. 17. repeals by recital one of the main provisions of 5 Vict. c. 5. s. 61., leaving the rest to follow; and thus the 1 Geo. 4. c. 58. s. 4. repeals by recital only the prohibition, but leaves the penalty to be repealed by implication; and thus, in numerous other instances, remedies, appeals, and incidental proceedings are left to fall, or to participate by inference in the effects, where the right, the obligation, or the first of an indissoluble series, is alone expressly repealed or modified.

by recitation.

Of this verbose method of identification by literal recital, it is to be observed, that when amendments, extensions, limitations, are so effected, they necessarily cumber the statute book with more than another amount of matter equal to the original; and that even where repeals are effected, the original is replaced by a repeal which occupies more than the original space. And these tautologous recitals are commonly accompanied by very ample references in addition. The draftsman who so effectually identifies his matter in this way being by this fact enabled still more to display his accuracy by identifying it superabundantly in all other ways.

(17) Such then are some of the chief impediments to the discovery and identification of the matter of the Statute Law when sought for any purpose, varying from the one extreme of utter destitution of all designation of the matter or guidance to it, to the other extreme of literal recitation and supererogatory reference,—impediments arising chiefly from its great bulk, disorder, and complexity, and aggravated by almost every form of amendment and almost every form of reference, and indeed by every operation, except those of clear and definite repeal, and effectual and comprehensive consolidation of related matters.

Difficulties of identification of matter recited.

(18) Similar illustrations to the foregoing of the anomalous modes of designating acts, and of referring to their provisions, and of the consequent difficulty of identifying their matter, might be multiplied indefinitely with a little trouble; but these few instances, collected in a very limited investigation, suffice to show how much would be gained by extensive and sustained consolidation of all the statute law on the same subject matter; a process which would at once do away with the occasion for the great majority of references and citations, and their incidental errors of description, and the fruitless labour cast by them upon all who have to find the law by such imperfect and misleading guidance.

Want of consolidation.

(19) But the further remark may be allowed, that without consolidation much of this inconvenience might be avoided by adopting some one consistent mode of designation, and discountenancing all others.

Intermediate remedy;

Misleading as express references often are, they are on the whole, a very great aid in ascertaining the connexion of the dispersed parts of the law; and therefore whenever a previous law is affected, it should be made incumbent on the draftsman, who ought and is to be presumed to know the acts and parts of acts affected by his bill, to cite them intelligibly and precisely, and with the greatest minuteness of reference, never more wide than the section, that the multitudinous readers of the law may each and all, by the small labour of one man, be saved from the alternative of a great, and unnecessary, and often a painful labour, or ignorance and error, which are mostly a worse evil still.

consistent designation;

Thus, we might easily adopt universally the practice now partially in use, of designating Acts by the year of the "era;" and it would be easy to avoid the fluctuations now allowed in the use of this mode of designation, by which the very same Act is

designated successively in different ways (14), by adopting the very simple plan, used in almost all other cases where a period is to be designated, of naming it from the date of its commencement. The beginning of the "session" is at once ascertained from its beginning to its end; once begun, however long it may continue, or whatever may occur during its continuance, this cannot change, and the entire session being designated throughout its course by this fact, all the Acts of the session would have and keep a certain and unchangeable denomination. Usually where but one session of Parliament commenced within one year, the session, or the Acts of the session, would be described as of that year. When two sessions or more commenced within one year the second and subsequent sessions would be designated as a "second session," and so on; or they might be designated respectively as the sessions of February 1854 and of June 1854, and of November 1854, or as the case might be.

And so also, if "short titles" be used at all, we may avoid some of the present inconveniences resulting from their use, and extend their convenience by placing them at the head of the act, and referring to them in the table and index;* if the year of the era is to be used at all, instead of the year of the reign,—by using it exclusively, for it must be as applicable to one act as to another; if the number of the chapter and of the section is to be used in one case,—and it is a very useful mode of identification, and, on the whole, is practised with far more accuracy than any other,—by using it in all cases

examples of prevailing inconsistency.

Nothing can excuse the present discordant practices, of which every opposite example is to be found not alone in different acts, but is commonly found in one and the same act, and often in one and the same clause. Thus, for instance, the 15 & 16 Vict. c. 87., which must have been framed by an able draftsman, with all necessary materials at hand, exemplifies in successive sections, and without any apparent reason for the difference, almost every diversity of the modes of citation; e.g.,

s. 14. cites 5 & 6 Vict. c. 84. ss. 11–16,
by the year of the reign;
not by the year of the era;
by the number of the chapter;
not by the section;
not by the full title;
not by the short title;
not by the subject.

s. 15. cites 11 G. 4. & 1 W. 4. c. 65. as "an act of the session, &c.,"
by the year of the reign;
not the year of the era;
by the number of the chapter;
not by the section (though very indefinite);
not by the full title;
not by the short title;
not by the subject;

but cites 13 & 14 Vict. c. 60.,
not by the year of the reign,
but by the year of the era;
not by the number of the chapter;
not by the section (though indefinite);
not by the full title;
by the short title;
not by the subject.

s. 16. first and again refers to various Acts of Parliament as "certain Acts now in force," without other indication but the description of their effects.
it then cites the 53 G. 3. c. 24.
by the year of the reign,

* Instances abound of 'full titles' as short, and yet as significant as can be required. Most of the titles prefixed to the Acts of the reign of Elizabeth, for instance, are as succinct as the modern 'short titles,' and far more expressive.

not by the year of the era ;
by the number of the chapter ;
not by the section (though there are 13 of them to wade through) ;
not by the full title ;
nor by a short title ;
but by description of the effect of the provision ;

it next cites the 14 & 15 Vict. c. 83. s. 17.

by the year of the reign ;
not by the year of the era ;
not by the section (the 17th out of 24 sections) ;
not by the full title ;
nor by a short title ;
but by a curt description of the effect ;

it next cites the 5 Vict. sess. 1. c. 5. s. 35.

by the year of the reign ;
not by the year of the era ;
by the chapter;
not by the section (the 35th out of 66 to be examined) ;
not by the full title ;
nor by a short title ;
but by a curt description of the effect.

To pass over other anomalies immediately following it, and running through the Act, it will be sufficient to observe that in section 17. it cites again the Act last mentioned, by the same terms exactly ; but as if variety in expression, even where identical matter is to be expressed, was the first thing desirable, it exactly reverses the order in which it first used those terms.

The 14 & 15 Vict. c. 55. s. 1. cites the 7 G. 4. c. 64. s. 23. by the number of the section ; s. 4. cites the same act, s. 26. without referring to the section ; s. 3. cites 4 & 5 W. 4. c. 36. s. 1. without referring to the section ; s. 17. also cites the 9 G. 4. c 43. s. 13. in the same defective way.

And a very gross instance is seen in the 14 & 15 Vict. c. 92. s. 26., which first cites three acts by their full titles, which are apparently Irish acts, not being found in the Statutes at Large of England, of Great Britain, or of the United Kingdom, but with no indication of their being Irish acts, and nothing apparent in the citation to distinguish them from acts of the United Kingdom cited in juxta-position with them ; it next recites, both in full words in the text and in figures in the margin, an act as the 5 G. 4. c. 43., which does not exist, —apparently meaning the 6 G. 4. c. 43 ; it then cites the 7 G. 4. c. 42. as "an act " relating to the trespass of cattle," which is not its title, although it correctly enough designates the purport of the act ; next it cites an act as of the 13th & 14th years of the reign of Her Majesty, not as of the session held in those years and it misrecites the terms of its title ; in short it repeals five acts, and there is some manifest objection to the terms in which every one of them is cited.

Connexion of the law in force, for the purpose of reference, consolidation, or amendment ;

(20) But in order to effect any consolidation, it is absolutely and indisputably necessary that all the connected matter shall be first found, at least all that is in force.

Although by the extrinsic aid of digests, indexes, and text-books, and by such intrinsic aids as the statutes themselves afford, many subjects, and those indeed the most considerable, can be readily traced, at least in their more important features, throughout the statute book, there still are many others, great in their total amount which can be only imperfectly traced by any or all of these means. In some few cases only is it an easy and certain operation to trace the whole connexions of a subject, and these cases are only those in which the occasions for legislation have been very few and the changes rare, or those in which recent consolidation has been effectually performed, and accompanied by clear and unqualified repeals. In all other cases it is only safe to assume that the investigation remains to be made, and that the result remains to be ascertained, before the progress of systematic consolidation can take place.

To ascertain what is in force is in many cases an identical work with the ascertaining of what is not in force. If either one were effectually done, so that it could be separated from the other, we should be by that fact in possession of all the law in force, cleared of all the effete matter which encumbers it; and it has been practically proposed to proceed on the plan of ascertaining first what law is expired, repealed, superseded, and to strike that by a comprehensive declaration out of the mass of which it now forms in many instances an undistinguishable part, so leaving a clear residuum of operative law, to be subjected to such ameliorative and methodizing processes as may then appear to be usefully applicable to it.

But the task is by no means a simple one; in part it may be performed almost as easily as it is proposed, but unfortunately this is the part which it is least necessary and beneficial to operate upon. Other parts are more difficult of performance, but would be of more value when done; and precisely that which is the most desirable upon all grounds to effect is in such a degree difficult as to be in many respects impossible but by a Gordian process,—the direct declaratory action of the legislature.

of Transitory matter;

Roughly stated the division of the matter is this:—

(21) There is a vast mass of transitory temporary legislation enacted every year. In its duration it varies greatly, being sometimes instantaneous and retro-active, as in confirmations, ratifications, nullifications of past transactions, and the like; or operated and spent in the instant of the operation of the act, as in repeals; sometimes prospective for particular occasions too various to characterize here; sometimes continuous for certain terms defined by the act of legislation, as in the numerous annual acts, the Mutiny Acts, the Supply Acts, the Indemnity Acts; sometimes continuous for indefinite terms, as in instrumental arrangements for the transition from one system to another, as for conversion of common into severalty, tithe into commutation rentcharge, copyhold into freehold, one denomination of stock into another, and the like; or in provisions for saving of vested interests affected by changes which provisions very commonly endure for the lives of parties, and sometimes for a succession of lives, as do likewise various grants for reward of meritorious services, by provision for those who have rendered them, and their descendants.

The quantity in the aggregate of such matter has been immense. In some periods almost the whole of our legislation has been provisional. During the last European wars, especially from 1803 to 1815, the great bulk, at least nine tenths, of the matter of our Acts of Parliament was provisional; and not nearly one tenth of the legislation of those still recent times has survived in effect to this day.

The Statutes at Large, being a sessional publication, contain all these kinds of temporary matter. The effect is necessarily a great contribution to the bulk of the statutes. But even in this sessional edition this mass of legislation, when promulgated in separate acts or even in separate classes, involves no further evil than the mere addition to the bulk of the printed book. No doubt is cast by it on other more permanent provisions. No one regards it but those concerned, and they only while they are so concerned, as more than so much waste paper. It is, as a rule, simply bodily mass and weight in the statute book. In getting rid of this in an expurgated edition, as is always done by publishers from time to time, it is only space, weight, and cost of printed paper which is saved; and this is work which any intelligent person can perform, and in nowise requires the appointment or the exertions of a public commission for its performance.

(22) But, as is to be observed more at large hereafter, the expurgation of the statute book from this transitory matter is very often rendered a more delicate and doubtful process by the objectionable practice of intermingling temporary and transitory matters with permanent matters, undistinguishable except by their effect, in the same statute, and often in the same clause, and even in the same sentence, in which cases, (which however are not very numerous,) the difficulty of expurgation by unauthorized deletion is sometimes almost or quite insuperable.

(23) It is, however, the character of all this provisional, transitory, temporary law, that few extensive or important, and no permanent, rights or obligations are or could be

suffered to depend on it, that no dispute or litigation, or almost none, arises on it, and that it is of, comparatively, little concern whether it be well or ill expressed,—undigested or digested. Its defects, whatever they be, are not developed and aggravated by course of time, but are all cured by the lapse of time.

Still this kind of provision will always participate in the character of our general legislation; and if our permanent legislation be improved in form and expression, the temporary will be improved in the same way too.

of Permanent matter;

(24) Of all the rest of our Statute Law, permanent in its first conception and expression, the larger part by far still incessantly becomes defunct, either by positive abrogation, by superseding and substituted amendment, or by obsolescence.

To clear the statute book of what has thus lost its force, to retain all that remains in force, is the task. It is easy and difficult in all degrees—one portion not requiring the exertion of a thought, another beyond the power of any individual capacity; and it differs nearly as much in value when done, each part, as it is difficult, removing for the whole community, and from the whole body of law, just so much of doubt and difficulty.

—Repeals;

(25) The simplest case is that of repealed and repealing matter, but its consideration differs greatly in degree of difficulty.

—absolute;

An enormous mass of the whole statute law enacted permanently has been repealed explicitly, absolutely, and in terms and in a manner that preclude all difficulty in finding such repeal or doubt of its operation. This matter, when it has existed in distinct acts, clauses, sentences, and is separate from subsisting matter, without more ado disappears as a thing of course from every edition of the statutes published subsequently to each such repeal. It generally leaves no further indication of its existence, but the repealing act.

Sometimes, however, the matter even thus absolutely repealed in itself has, during the time of its subsistence, been more or less extensively referred to by other acts not repealed; it may even have been the necessary basis for other provisions, or a necessary incidental of them*; and in these cases the repealed matter must still often remain in the statute book as indispensable parts of other statutes still in force. While the law remains unconsolidated, so long as each statute does not contain in itself all that is necessary and incidental to it, much matter repealed in respect of its direct operation must hold its place on the statute book, and it will be impossible safely to strike out any repealed matter until all the acts by which it may have been adopted have been examined.

—limited or exceptional;

(26) A complication of the form of these absolute repeals is frequent, namely, when something is excepted out of the repeal. This sometimes adds considerably to the difficulty of construing the repeal; but it generally has this inconvenient effect, that the repealed provisions must still stand on the statute book, because of the fragment of their original operation preserved by the exception; it leaves the statute book as much encumbered as before, and only adds to the difficulty of reading it, making it necessary to read it in application to a part only, instead of to the whole of the original subject.†

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* Thus the 17 G. 2. c. 5. (Vagrants) is wholly repealed by the 5 G. 4. c. 83. s. 1., but the 59 G. 3. c. 12. s. 33., in a part still unrepealed, adopts the provisions of the first act for passing vagrants, and, apparently, also the several provisions of other acts (also repealed) amending that first act; and, although repealed, these provisions are all still necessary to the operation of so much of the 59 G. 3. c. 12. s. 33. as is still in force. See Appendix, Digest of Poor Laws (. .) Thus again, of this same statute, 59 G. 3. c. 12., the second section is repealed by the 4 & 5 W. 4. c. 76. s. 53., but it contains the indispensable description of the legal subjects of s. 29., which is still in full and undiminished force, but is unconstruable without the terms of s. 2. See Digest of Poor Laws (.) So again the 31 Eliz. c. 7 (Cottages) is repealed by the 15 G. 3. c. 32., but the penalties of the first statute are adopted by the 43 Eliz. c. 2. s. 5. still unrepealed. See Digest of Poor Laws (.), and elsewhere), for many similar instances of the necessity of repealed matter for the completeness of that which is still in force.

† Some of these limited or exceptional repeals are themselves most difficult to understand. For instance, the repeal just above referred to in the schedule of the 12 & 13 Vict. c. 106. involves exception within exception, so as to be wholly unintelligible without a painful reading of it and of the repealed provisions together.

The 15 & 16 Vict. c. 85. an Act, the operation of which extends only to the metropolis, refers generally to 13 & 14 Vict. c. 52., consisting of fifty-four sections and two schedules; but to preserve the temporary operation of one section (the second), instead of re-enacting this section, uses saving words referring indefinitely to the whole Act.

The simple course of legislation in such cases would be to make the repeal absolutely and without exception, and then to re-enact so much of the matter as it is necessary to retain, in its now limited form.

—qualified;

(27) Another very large mass of law has been repealed expressly and absolutely as to the effect of the repeal, but in relative terms. Such are the repeals in such terms as "so far as is inconsistent with this act," and the like, requiring that we must first know the act thoroughly, and then ascertain the law inconsistent with it before we can decide what is repealed. Repeals in this form commonly serve to conceal the ignorance of the draughtsman of the effect he is producing, and always display his sense of the indefiniteness even to himself of his operations. Repeals in this form are very frequent; and of late years so many have been the repeals upon repeals that such instances as that before adverted to, of a statute repealing all that is inconsistent with it being afterwards itself repealed except as to the repeals effected by it*, are not unfrequent. Such cases require that we should first master the matter even of a repealed statute, and in some cases of a succession of repealed statutes, and then ascertain the law inconsistent with all that matter before we can determine what was in fact repealed. "Inconsistency" too is itself so various, including every degree of divergence, from that discoverable only by the finest subtlety and utmost sagacity to the most obvious and flat contradiction, that it is sometimes perfectly easy, and at other times practically impossible, to determine what is repealed as "inconsistent" with a given provision, or entire act, or a series of either.

These repeals involve all the difficulties also incidental to unqualified repeals, and require the same caution to be observed in respect of the adoption, and incidental uses of repealed matter by other statutes still in force.

Still, on the whole, it is simple labour only that is required to register the majority of these repeals, and to clear the statute book of the abrogated matter, which is indeed more or less effectually done in successive expurgated editions of the statutes; and this labour will be incessantly required, even in increasing quantities from year to year, so long as statute law is not made and kept self-consistent and each act self-sufficing, by sustained consolidation.

—conditional,—
—suspended,—
—problematical;—

(18) Another class of repeals are even express and definite and yet by the mode of their enactment are rendered undiscoverable in the statute book, or by any of the other usual aids; such are the cases in which the repeal is made to operate after some contingency which may perhaps never occur; such are the cases in which it is declared that after the Poor Law Commissioners have made a certain order, the previous law shall cease; or where power is given to the Lord Chancellor to abrogate practices in any respect authorized or recognised by statute, as, for example, under the 15 & 16 Vict. c. 86. ss. 9, 28, or to abolish fees in lunacy, 15 & 16 Vict. c. 87. s. 14. Such also is the proviso on a repeal, that so much shall still be in force so long as a third act is in operation, 15 & 16 Vict. c. 85. s. 1.; such are multitudes of salvos on express repeals, as in 15 & 16 Vict. c. 81. s. 1., which frequently re-open the whole question whether there be a repeal or not In all such cases the repeal remains in suspension until the condition on which it operates is performed; and of this, which is a mere matter of fact, there is often but a very inadequate notice, or none at all, given to the general public.

And sometimes repeals are suspended in another way, in which, however, the operation is not so obscure, as when a perpetual act is by another act made temporary, as the 3 & 4 W. 4. c. 94. s. 39. by the 15 & 16 Vict. c. 80. ss. 1, 2, 5., and so expires at some time defined or undefined.

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* Viz., the 5 & 6 Vict. c. 122., consisting of ninety-four sections, and 12 & 13 Vict. c. 106. s. 1. and schedule. A more curious and complicate case of this mode of relative repeal occurs in the acts 13 & 14 Vict. c. 102. and 14 & 15 Vict. c. 92; the first repeals so much of two acts as relates to the matters "herein;" the second, having considerably changed these matters, repeats the very same form of repeal.

A curious complication frequently arises from the operation of a repeal on parts only of a series of acts, as in the case of the original Act 13 & 14 Vict. c. 52. repealed by the 15 & 16 Vict. c. 85. s. 1.; but the Act . . . to amend the first, and declared (s. 4.) to be one with it, not repealed, but amended by the latter. —of fragments of a series ;—

(29) Again, another class of repeals are so enacted that it is impossible to discover their practical extent, as in those numerous cases in which it is declared that where some law or custom is in operation or is not in operation, a statute shall not apply or shall apply. Such are the numerous savings of corporations, of places subject to the administration of local acts, of customary officers, customary vestries, and the like.* Such a case is that of the 16 G. 2. c. 31. repealed where the 4 G. 4. c. 64. applies (s. 1.); in which instance the repeal is local, the complementary subsisting operation local, and both indefinite. Such are the powers of optional substitution of a general act for a particular act, as in the 15 & 16 Vict. c. 81. s. 47.; and such are the frequent reverse operations by which an option is given to substitute a special act for a general one, and to exclude the general law, as in acts enabling the inhabitants of places to adopt vestries, boards, and the like. But in all these cases the general law continues to subsist, and is not to be treated as repealed; and the words, though often express in their terms as repeals, in fact only enact an exemption from the still subsisting and otherwise general law. Where, however, special Acts are so superseded it amounts practically to a repeal. —complementary or exemptional ;—

(30) Such are some of the anomalous ways in which law is put out of force, even by express enactment, and which render it difficult to identify the law so abrogated, or the extent to which it is abrogated. It is probably this difficulty, and the resulting uncertainty, that has so often led to the adoption of a course as superfluous and officious as the courses already directed are defective and negligent,—that, namely, of reiterating, sometimes again and again, the repeal of a law already once effectually repealed. The Revenue Acts present a long series of instances, too numerous to detail, of repeals of duties, bounties, &c., by particular acts, and their repeal again by some subsequent consolidating act or acts.† —reiterated ;—

(31) Still more obscure than the foregoing are the indications of that large and constantly increasing mass of matter commonly designated as "virtually repealed." Generally this so called "virtual" repeal is supposed to be effected as a result of some obvious repugnancy or contrariety in different provisions, and essentially it in no way differs from the effect of so much of a similar repugnancy between different phrases, or in the terms of the same phrase, or of the same provision, within the same act. —virtual ;

It is rare that the repugnancy is absolute,—that the one provision is the absolute negative of the other. Where it is so the conrariety is manifest, the latter enactment repeals the former, and the difficulty of ascertaining which is in force and which is not is none at all, consisting of the simple process of comparison of the one with the other.

But every degree of repugnance, less than that of absolute contradiction, down to the smallest shade of variance in effect, involves the difficulty of construction, which leaves every man in doubt which of the two rules applies to his case, and in what degree

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* See numerous savings, some of them in terms of repeal, in the Poor Law Digest (. to .)

† The following instances came in to view in the course of two or three hours search for quite another object:

56 G. 3. c. 103. ss. 1, 2, 4, 6, repealed by 1 G. 4. c. 58. ss. 1, 2, 4, 6.
again by 2 & 3 Vict. c. 23. s. 67.

34 G. 3. c. 20. s. 49. by 1 G. 4. c. 58. s. 22.
again by 2 & 3 Vict. c. 23. s. 67.

3 G. 3. c. 11.
33 G. 3. c. 37.
41 G. 3. c. 12.
} by 59 G. 3. c. 36. s. 1. Again by 6 & 7 W. 4. c. 37. s. 1.

55 G. 3. c. 54. s. 1.
59 G. 3. c. 36. s. 11. (and § 107)
} by 1 & 2 Geo. 4. c. 36. s. 1. Again by 6 & 7 W. 4. c. 37. s. 1

The instances are innumerable.

it is covered by the one or the other. These are the cases which embarrass the most careful, well-informed, and scrupulous men, breed questions innumerable and interminable for professional advice, occupy the courts of law with a great proportion of all their business, and rarely receive even from them a final or general solution. The determination, if it were possible by any authority short of that of the legislature, of the fact of the abrogation of this immense and indefinite mass of law, and by the converse operation of the process, the ascertaining of that complement which is left in force, would indeed be a mighty benefit. I have only to suggest that I for one am quite incompetent to do more in any such cases than discover some reason on one side or the other for the prevalence of my opinion towards one side or the other; but authoritatively to determine the questions of this kind seems to me to require no less an authority than that of the supreme judicature, which itself can never enlarge its decisions beyond the terms of the case before it, and of the legislature itself where the general effect of such conflict is to be determined.

—Amendments.

(32) After all, the great process of abrogation of law, statutory or other, is not manifested in definite repeals, expressed or implied, direct or virtual. The great process is new legislation, the institution of new rules, or the progressive extension of old, superseding, to the extent of their operation, some previous rule of Common Law or provision of the Statute Law. This process takes place too frequently without recognition of the effect it is producing on the existing law, and it is not unfrequently that three or four or more provisions stand apparently in force in the statute book each of which exactly covers and applies to some ground covered just as exactly by all the others, and each differing as to some one or other particular as to which it may upon just principles of construction be maintained that each remains in force.* This non-coincidence of provisions enacted in the main for the same purpose, this accumulation of alternative provisions, slightly differing in particulars, but often involving a great practical difference to individuals, according as one or the other is applied in a particular case, constitutes one of the very chief causes of the extreme bulk and confusion of the law, and a chief difficulty of its interpretation. Undoubtedly much of the law thus apparently existing as alternative provision is in reality useless for all practical purposes, abandoned as to the majority of the alternatives in favour of that which has the preferable operation, superseded in short by common consent, though not, perhaps, by the intention of the legislature.

Here again an authority to determine what remains in force and what is legally superseded would be of the utmost value, but the operation is one which, valuable as it may be, appears wholly to transcend the power of any private individual.

—Obsolescence.

(33) In the course of time and the change of circumstances much of the law, without any change in its terms, has lost the subjects and occasions of its operation. Customs have decayed, others wholly different have arisen, old institutions have been superseded by others, whole classes of persons, whole classes of things, occupations, opinions, the subjects of former laws, have disappeared, leaving not a vestige upon which those laws now have effect. In all cases obsolescence is a question of fact. It is always a matter of historical information and cotemporaneous observation whether any ancient law is anywhere practically in operation, or has wholly ceased to operate everywhere, whether in any respect any matter survives to the present time upon which its provisions could take effect. Doubtless a great part of what is obsolete is notoriously so, but being notorious there is not much gained by stating the fact; in the remainder of the cases there would be danger in treating as obsolete what might possibly still be found to have its application; and therefore it seems to be more properly the business of the legislature expressly to abrogate this portion of the law, than for any private individual to declare it, on his conclusion of its obsoleteness, as "not in force."

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* See examples in Digest of Poor Laws,† especially as to modes of relief, (.) modes of appeal against rates, (.) and as to the accountability of officers (.).

† N.B. This paper, as before stated, is not yet printed.

How to dispose of law of doubtful operation.

(34.) As to all these cases of unexpressed repeals, even of repeals expressed but no defined, and as to all this so-called virtual repeal and abrogation and supersession of law, and all the obsolescence of laws still allowed by the legislature to retain the form and apparent force of law, there appears to me but one safe and unobjectionable course to pursue; that is, to collect together all the matter in eâdem materiâ under the heads in respect of in which such matter has any similitude. By this digestion and juxtaposi- of alternative and incongruous, non-coincident, and it may be contradictory matters, their multiplicate or repugnant character would be made manifest, and the legislature which has deliberately created all the accumulated matter, and which has not manifested a clear intention of abrogating any of it, will then have present to it the means and the opportunity to declare definitively, with that authority which only rightfully resides in itself, what of such law shall henceforth remain "in force," and what shall henceforth be "not in force." The process of ascertaining such connexion and interoperation of the statutes, so far as their connexion is manifest in their terms or is deducible from intrinsic evidence, is the subject of the remainder of this paper. The process of the digestion of this connected matter is the subject of the next following paper.

Proposed Register of connexion of statutory matter.

(35.) Although it is impossible, without performing all the processes required in an exhaustive and complete consolidation of the law, to determine, conclusively, what is absolutely in force, and what is absolutely not in force, still the daily operations of every lawyer, and the preliminary operations of the members of this Commission must involve the consideration and determination of some portion, and, in the case of this Commission, a large portion, of this question.

What is certain is, that when this operation is well performed by any one person in any one case, it might, if duly registered, save all the trouble of the operation to every other person to whom the results were communicated; one person's labour applied to the task might, in this respect, save the equal labour of all the rest; and, indeed, more than this, inasmuch as his continuous and undivided labour would give him more facilities for the performance of all the parts than would be possessed by any other.

The Register, of which a specimen is appended to this paper, is offered as a means of registering these facts exhaustively, and of continuing the registration from year to year, concurrently with the operations of the legislature, until a comprehensive and effectual and sustained consolidation of the Statute Law renders it unnecessary, as it would do.

—General contents of the following Specimen;

(36.) The Specimen is partial as to its contents, being primarily intended to aid the labours of this Commission, and, therefore confined to the subjects which our instructions direct us to deal with, omitting all details of legislation as to finance and military matters and Scotch and Irish matters, and, by an extension in presumed consistency with these instructions, all other matters specially relating to the administrative or executive government, to international or diplomatic affairs, and to the colonies.

What remains is dealt with in the manner proposed in relation to all the acts of the present session (16 Vict.) published when the operation stopped, and to the whole of the acts of the previous session. (15 & 16 Vict.)

—process of its preparation;

(37.) The reason for commencing with the most recent and proceeding regularly backwards to the earliest acts of legislation is obvious. The last act must be in force, unaffected by subsequent legislation, and it may itself affect indefinitely any number of antecedent acts. It is a simple course at once to register all its ascertainable operations upon those acts by erasure of those acts, by interpolations in their text, or on their margin, and by the insertion of all these effects in the proper columns in such a register as the present. But as to any act of an earlier time, it is impossible to ascertain upon its face or in its terms what its operation is upon subsequent legislation, or how it is operated upon

by it, and anything noted or registered, as ascertained by its terms, may be afterwards discovered to be rendered of no effect, upon ascertaining the operation of some subsequent act. To begin, then, with the last legislation and to proceed backwards, is to proceed surely, with the absolute certainty of discovering the repeals, continuances, revivals, amendments at that place where they can be at once noted and registered, without a possibility of subsequent discovery rendering the labour useless. A further reason is, that to deal first with the most recent legislation, is to operate upon that part of the law which is of the most instant importance and utility.

Inspection of the specimen of the register for the 16 Vict., the current session, discovers considerable operations registered upon antecedent legislation; numerous amendments made, of course none suffered; numerous repeals made, of course again none suffered.

Onthe other hand, the same inspection of the register for the last session 15 & 16 Vict. discovers not only amendments and repeals made, but also many amendments and repeals already suffered by the legislation of that session from the legislation of this.

Detailed contents of Specimen; acts;

(38.) The Register contains, in the first column, headed 'Statute,' the designation of each Act by the reign and chapter, and of every Section by its number.

sections;

For nothing less than the examination of every section can discover what law is in force, what amended, what abrogated. Amendments, repeals, express or virtual, constantly lurk in single sentences, phrases, words. The greatest act may be repealed by the most obscure phrase in another, not indicated by the title or in the margin, and only discoverable by the perusal of the words; and, conversely of the matter passively affected by amendment or repeal, whatever is affected by general or comprehensive repeals must be discovered by the like minute perusal of the matter affected.

Accordingly, this specimen exhibits several instances, even of single clauses partly amended, partly repealed, part operating or operated upon one way, another part another.

(39.) The second column, headed '§§' is to exhibit the total number of sections in each Act. They may be added up at the end of the session, or for any period, great or little, and give any result required as to the number of sections in any number of acts.

This column is not of much utility, but it costs almost no labour or space.

subjects

(40.) The next column, headed 'Subjects,' shortly indicates the subject of the act; and as to acts relating to the subjects excluded in our instructions, indicates at the same time enough to show the existence of such acts, and the reason why their contents are not analyzed and examined section by section.

duration, its importance;

(41.) The next column, headed 'Duration,' is of great importance as general information, but especially as regards the consolidation of the law.

It is only the permanent matter that greatly requires consolidation, or is worthy of so laborious and costly an operation; what is expired is excluded from all consideration except historical curiosity; what is executed of itself loses, in the spending of its force, all further interest; what has still a temporary duration has but a value and interest proportional to the time; the permanent and perpetual by the terms are infinite.

At all events, the perpetual matter, however involved in the present framing of of parliament, with the transitory, is the important subject of consideration in the rocess of consolidation.

The large number of entries in this column indicating matter already expired, and of an occasional and transitory character, shows how much less than the whole of the legislation, even of the current session, is a subject for consolidation.

In the process of compiling this Register, every act or provision ascertained to have expired is so noted in the margin of the compiler's copy of the statutes, and the act or provision itself struck through with a pen. His copy thus becomes, as the operation proceeds, cleared of effete matter, and so far an expurgated edition.

(42.) The next two columns, headed respectively 'Amends' and 'is amended by,' are the most important in the whole Register; for they are to show the subsisting relation and connexion of all the law at the time in force; what amends is not only important in itself, but is equally important as to what is amended by it, and indeed, with original matter unamended, constitutes the whole subsisting body of the law. amendments;

And this consideration of amendment it is that constitutes almost all the difficulty of investigation, no conclusion about any statutory matter being safe, until we are assured that that matter has not been amended; and when we know the series of amendments on a given law we are in full possession of all the materials for judging of its effect.

It is observed that these two columns correspond reciprocally. Every amendment in one act is an amendment operating upon another. Ascertaining, on the retrograde process before described, the amendment first, it is to be inserted in the column headed 'Amends;' but it is also, as a continuous part of the operation, to be noted in two other ways, first, upon the text or margin of the act or acts amended, and next within the column headed 'is amended by,' in the skeleton register prepared for the statute so amended.

For example, the 16 Vict. c. 20. ss. 3–6. amends the first section of the 15 & 16 Vict. c. 27., and this fact is noted in the Register of the session 16 Vict. under the head 'Amends,' and is likewise entered in the Register of the session 15 & 16 Vict. under the head 'is amended by, and is noted in the compiler's copy of the Act 15 & 16 Vict. c. 27.

Thus each amendment, as discovered, is displayed at once in reciprocal entries in these respective columns and in the compiler's copy of the statutes, which thus becomes, as the operation proceeds, a Collated Edition of the Statutes, as amended by the most recent legislation.

It is to be noted, that the word 'amends' in the heading of the Register is used in a general sense, and includes all modifications operated upon matter still left, in whole or in part, in force,—extensions, limitations, declaratory clauses, and the like; but the detailed entries in these columns, under the headings, always express he special modifications effected or suffered; and the notes made in the copy of the statutes are as much more minute and special as the case may require.

(43.) The next two columns, headed respectively 'Repeals' and 'is repealed by,' are the columns of the next importance in the Register. They show all that subsequent legislation has abrogated of the antecedent legislation, and with the preceding columns will, if the Register be ever completed, show the entire amount of all the legislation that has been in force, and the amount by and to which it has been reduced by abrogation. repeals.

Like the two preceding columns, the entries are reciprocal, the repeal being entered, when discovered in the latest statute, in the first of these columns, and entered again in the other column, in the proper place of the earlier statute or part of statute repealed; and at the same time a note is made in the compiler's copy of such earlier statute of the extent of the repealoperated on it; and when words, clauses, or statutes, or acts are repealed without exception or qualification, they are struck through by the pen, and thus the copy becomes an Edition of the Statutes with the repealed matter or matter superseded struck out or appropriately annotated, according to the nature of the case.

Progress of these operations;

(44.) The annexed specimen refers only to so many of the acts of the present session as had been published at the beginning of June, when the work was stopped, and to the whole of the acts of the last session; but, as before observed, the entries of all amendments and repeals are notified reciprocally in the Registers appropriated to the amended or repealed acts, and therefore every entry in this specimen of any amendment or repeal of any provision earlier than the 15 & 16 Vict. implies that a corresponding entry is made in some earlier part of this register not exhibited here.

The entries thus made and not displayed in this specimen exceed 2,000.

In order to prepare the skeleton forms for this Register, and with a view to the omission from them of the statutes excepted from consolidation, I have examined and prepared the nineteen volumes of statutes passed from the year 1800 to the year 1852.

In this operation, and in those before referred to, deleting the expired and repealed matter, I have struck out of these nineteen volumes about 7,000 pages and above 20,000 clauses, diminishing, by this amount, the future labour if it is to be continued.

Recommendation as to the completion of the Register;

(45) The origin of this Register was the recognition of the necessity of ascertaining all the facts noted in the Register in the course of carrying out the object of this Commission, and the recognition of the other fact that such work, when performed by one person, might be placed at the disposal of all others, and thus spare to all but one a great amount of tedious labour.

But it is not to this Commission alone that this Register may be useful; it would be useful to every person who may have occasion to consult the statute book; it would enable every person to expurgate his own copy of the statutes of all effete matter, and to note the connexion of what remains in force. I therefore suggest that it should be completed and published, and that the annual Continuation of it should also be published at the end of every session within a week or fortnight after the publication of the last act of the session.

and as to the expurgated and collated copy of the Statutes.

(46.) I would also submit that the compiler's copy of the Statutes at Large, reduced in the course of this process by the expurgation of all expired provisions, and of all matters expressly repealed and superseded, and annotated with marginal references to all expressed amendments, should also be published by the authority of Her Majesty's Government, not only because the matter contained in it would comprise the material for future amend ment and consolidation, but because of the great utility to the public of an edition of the Statutes thus expurgated and collated.

Estimates.

(47.) After a careful approximate estimate of the matter which would thus be prepared for publication, I obtained an estimate from the Queen's Printers of the cost of a thousand copies of the expurgated and collated edition of the Statutes, and am informed and feel assured that it would not exceed the sum of 720*l*.

I have also endeavoured to estimate the time that the completion of this work would take, and allowing for the more rapid progress as the work proceeded, disencumbered as it would be at every step of all the matter disposed of in that step, it appears to me that, with the aid of three clerks, the entire work might be done in the course of two years.

August 1853. GEORGE COODE.

Appendix to Paper 1.

SPECIMEN
OF A
CHRONOLOGICAL REGISTER
OF THE
DURATION, ACTION, AND INTER-ACTION OF ACTS OF PARLIAMENT.

Session 15 & 16 Victoria.

Statute.	§§	Subject.	Duration.	Amends;	is amended by.	Repeals;	is repealed by.
15 & 16 Vict. c. 1.	§§ 8	Revenues.	The year. Expired.				
,, c. 2.	§§ 2	Annual Inclosure, 1st (1852).					
§ 1.			Perpetual.	Supplements 8 & 9 Vict. c. 118. §§ 3, 27, 32, 94.			
§ 2.							
Sched. 1.							
Sched. 2.							
,, c. 3.	§§ 7	Crown Estates Administration.					
§ 1.			Perpetual.				
§ 2.			Perpetual.	Dispenses with administration bond, 22 & 23 Car. 2. c. 10.			
§ 3.			Executed.				
§ 4.			Perpetual.				
§ 5.			Perpetual.				
§ 6.			Perpetual.				
§ 7.			The occasion.				
c. 4.	§§ 7	Annual Indemnity.	Expired.				
,, c. 5.	§§ 6	Municipal Corporations.					
§ 1.			Perpetual.	Limits disqualifications in 5 & 6 W. 4. c. 76. § 23. and 4 Vict. c. 108.			
§ 2.			Stays pending proceedings.				
§ 3.			,,				
§ 4.							
§ 5.			Salvo for judgments already passed.				
§ 6.				Declares effect of 5 & 6 W. 4. c. 76. § 23. and 3 & 4 Vict. c. 108.			
,, c. 6.	§ 1	Registration of Inventions.	Expired 1st Feb. 1853	Extends 14 Vict. c. 8. § 4.			
,, c. 7.	§§ 104	Mutiny (Army).	Expired.				
,, c. 8.	§§ 92	Mutiny (Marine).	Expired.				
,, c. 9.	§ 1	Disfranchisement of St. Alban.	Executed.	Completes 14 & 15 Vict. c. 106.			
,, c. 10.	§§ 7	Supply.	The year. Expired.				
,, c. 11.	§ 1	Inspection of Cattle.	1st Sept. 1853.	Continues 11 & 12 Vict. c. 107.			
,, c. 12.	§§ 14	International Copyright.					
§ 1.			Perpetual.	Incorporated with 7 & 8 Vict. c. 12.		7 & 8 Vict. c. 12. § 18. so far as inconsistent.	
§ 2.			Perpetual.				
§ 3.			Perpetual.				
§ 4.			Perpetual.				
§ 5.			Perpetual.				
§ 6.			Perpetual.				
§ 7.			Perpetual.				
§ 8.			Perpetual.				
§ 9.			Perpetual.	Adopts 5 & 6 Vict. c. 45. § 17.			
§ 10.			Perpetual.	Incorporation with 7 & 8 Vict. c. 12.			
§ 11.			Perpetual.	This Act extended to convention under the 7 & 8 Vict. c. 12.			
§ 12.			Perpetual.	Declares effect of 9 & 10 Vict. c. 58. Sched.			
§ 13.			Perpetual.	Declares effect of 9 & 10 Vict. c. 58. Sched.			
§ 14.			Perpetual.	Declaratory extension of 8 G. 2. c. 13. § 1., 7 G. 3. c. 38. §§ 1, 2, 5, 8, 17 G. 3. c. 57. 6 & 7 W. 4. c. 59.			
,, c. 13.	§ 1	Linen Manufacture (Ireland).					
,, c. 14.	§ 1	Poor, Charges on Common Fund.	30th Sept. 1853, and end of next session of Parliament.				
,, c. 15.	§ 1	Loan Societies.	1st Oct. 1853.				
,, c. 16.	§§ 5	Repayment of Advances (Ireland).					
,, c. 17.	§ 1	Ecclesiastical Jurisdiction.	1st Aug. 1853, and end of next session.	Continues 10 & 11 Vict. c. 98.			
,, c. 18.	§ 1	Stock in Trade Exemption.	1st Oct. 1853.	Continues 3 & 4 Vict. c. 89.			
,, c. 19.	§ 1	Highway Rate and Turnpike Roads.	1st Oct. 1853.	Continues 4 & 5 Vict. c. 59.			
,, c. 20.	§§ 3	Property Tax	1st April 1853.				
,, c. 21.	§§ 2	Stamp Duties.	10th Oct. 1853.				
,, c. 22	§§ 3	Turnpike Roads (Ireland).					

Session 15 & 16 Vict.—*continued.*

Statute.	§§	Subject.	Duration.	Amends;	is amended by.	Repeals;	is repealed by.
15 & 16 Vict. c. 23.	§ 1	Assembling of Parliament.	Perpetual.	5 Anne c. 8. (§ 1. Art. 22.?) (§ 12.?), 7 & 8 W. 3. c. 25. § 1., and all laws and usages to the contrary.			
,, c. 24.	§§ 4	Execution of Wills.					
§ 1.			Perpetual.	Amends 1 Vict. c. 26. § 2.			
§ 2.			Retrospective.				
§ 3.			Perpetual.				
§ 4.			Perpetual.	Adopts construction of 1 Vict. c. 26.			
,, c. 25.	§ 1	General Register Office.	The occasion.	Amends 6 & 7 W. 4. c. 86. § 2.			
,, c. 26.	§§ 6	Foreign Deserters, Merchant Ships.					
§ 1.			Perpetual.				
§ 2.			Perpetual.				
§ 3.			Perpetual.				
§ 4.			Perpetual.				
§ 5.			Perpetual.				
§ 6.			Perpetual.				
,, c. 27.	§§ 5	Evidence (Scotland).					
§ 1.			Perpetual.		16 Vict. c. 20. §§ 3, 6.		Part by 16 Vict. c. 20. § 2., 16 Vict. c. 20. § 1.
§ 2.			Ceased.				
,, c. 28.	§§ 7	Commissioners of Public Works.					
,, c. 29.	§§ 11	Public Works, Kennington Common.					
,, c. 30.	§§ 14	Customs, Belfast (Ireland).					
,, c. 31.	§§ 14	Industrial Societies.					
§ 1.			Perpetual.	Adopts provisions of 13 & 14 Vict. c. 115.			
§ 2.			Perpetual.				
§ 3.			Perpetual.				
§ 4.			Perpetual.				
§ 5.			Perpetual.				
§ 6.			Perpetual.				
§ 7.			Perpetual.				
§ 8.			Perpetual.	Adopts 13 & 14 Vict. c. 115. Excludes 7 & 8 Vict. c. 110.			
§ 9.			Perpetual.				
§ 10.			Perpetual.				
§ 11.			Perpetual.				
§ 12.			Perpetual.	Excludes 13 & 14 Vict. c. 115. § 36. and other provisions.			
§ 13.			Perpetual.				
§ 14.			Perpetual.				
,, c. 32.	§§ 10 & Sch.	Burghs (Scotland).					
,, c. 33.	§ 1	Turnpike Trusts.	Perpetual.	Complements 13 & 14 Vict. c. 38.			
Sched.			Perpetual.				
,, c. 34.	§ 1	Scutch Mills (Ireland).					
,, c. 35.	§§ 2	Representative Peers (Scotland).					
,, c. 36.	§§ 3	Dissenting Places of Worship.					
§ 1.			Perpetual.	1 W. & M. Sess. 1. c. 18. § 19., 52 G. 3. c. 155. § 2.		1 W. & M. Sess. 1. c. 18. § 19. (*quoad* Protestant Dissenters).	
§ 2.			Perpetual.	1 W. & M. Sess. 1. c. 18. § 19., 52 G. 3. c. 155. § 2.		52 G. 3. c. 155. § 2. as to effect of certificate and registry.	
§ 3.			Perpetual.				
,, c. 37.	§§ 2	Poor Law (Ireland).					
,, c. 38.	§ 1	Poor Law.	Perpetual.	43 Eliz. c. 2. *passim*, 12 & 13 Vict. c. 8. § 1., 12 & 13 Vict. c. 64.			
,, c. 39.	§§ 2	Crown Revenues (Colonies).					
,, c. 40.	§§ 5	Inland Revenue.					
c. 41.	§§ 38	(Local).					
,, c. 42.	§§ 16	Board of Health (Local)		Complements 11 & 12 Vict. c. 63.			
,, c. 43.	§ 1	Oaths of Abjuration and Assurance.	Perpetual.			1 G. 1. Stat. 2. c. 13. § 17., 6 G. 3. c. 53. § 1. as to *penalties* on *Peers* and *M.P.'s*.	
,, c. 44.	§§ 91	Passengers by Sea.				12 & 13 Vict. c. 33., 14 & 15 Vict. c. 1., and confirms previous repeals in the 12 & 13 Vict.; viz.— 5 & 6 Vict. c. 107. 8 & 9 Vict. c. 14. (qu. § 2.?) 10 & 11 Vict. c. 103. 11 & 12 Vict. c. 6. and under the 8 & 9 Vict. c. 14. § 1. of part of 7 & 8 Vict. c. 112. § 18. and under the 5 & 6 Vict. c. 107. § 1. of 5 & 6 W. 4. c. 53. 3 & 4 Vict. c. 21. part of 1 & 2 Vict. c. 113.; viz. § 24. and under 5 & 6 W. 4. c. 53. § 1. of 9 G. 4. c. 21.	

Session 15 & 16 Vict.—*continued.*

Statute.	§§	Subject.	Duration.	Amends;	is amended by.	Repeals;	is repealed by.
15 & 16 Vict. c. 44.—*cont.*							
§ 1.	§§ 91	Passengers by Sea.	Perpetual.				
§ 2.			Perpetual.				
§ 3.			Perpetual.				
§ 4.			Perpetual.				
§ 5.			Perpetual.				
§ 6.			Perpetual.				
§ 7.			Perpetual; partly retrospective.				
§ 8.			Perpetual.				
§ 9.			Perpetual.				
§ 10.			Perpetual.				
§ 11.			Perpetual.				
§ 12.			Perpetual.				
§ 13.			Perpetual.				
§ 14.			Perpetual.				
§ 15.			Perpetual.				
§ 16.			Perpetual.				
§ 17.			Perpetual.				
§ 18.			Perpetual.				
§ 19.			Perpetual.				
§ 20.			Perpetual.				
§ 21.			Perpetual.				
§ 22.			Perpetual.				
§ 23.			Perpetual.				
§ 24.			Perpetual.				
§ 25.			Perpetual.				
§ 26.			Perpetual.				
§ 27.			Perpetual.				
§ 28.			Perpetual.				
§ 29.			Perpetual.				
§ 30.			Perpetual.				
§ 31.			Perpetual.				
§ 32.			Perpetual.				
§ 33.			Perpetual.				
§ 34.			Perpetual.				
§ 35.			Perpetual.				
§ 36.			Perpetual.				
§ 37.			Perpetual.				
§ 38.			Perpetual.				
§ 39.			Perpetual.				
§ 40.			Perpetual.				
§ 41.			Perpetual.				
§ 42.			Perpetual.				
§ 43.			Perpetual.				
§ 44.			Perpetual.				
§ 45.			Perpetual.				
§ 46.			Perpetual.				
§ 47.			Perpetual.				
§ 48.			Perpetual.				
§ 49.			Perpetual.				
§ 50.			Perpetual.				
§ 51.			Perpetual.				
§ 52.			Perpetual.				
§ 53.			Perpetual.				
§ 54.			Perpetual.				
§ 55.			Perpetual.				
§ 56.			Perpetual.				
§ 57.			Perpetual.				
§ 58.			Perpetual.				
§ 59.			Perpetual.				
§ 60.			Perpetual.				
§ 61.			Perpetual.				
§ 62.			Perpetual.				
§ 63.			Till 1st Feb. 1853. Expired.				
§ 64.			Perpetual.				
§ 65.			Perpetual.				
§ 66.			Perpetual.				
§ 67.			Perpetual.				
§ 68.			Perpetual.				
§ 69.			Perpetual.				
§ 70.			Perpetual.				
§ 71.			Perpetual.				
§ 72.			Perpetual.				
§ 73.			Perpetual.				
§ 74.			Perpetual.				
§ 75.			Perpetual.				
§ 76.			Perpetual.				
§ 77.			Perpetual.				
§ 78.			Perpetual.				
§ 79.			Perpetual.				
§ 80.			Perpetual.				
§ 81.			Perpetual.				
§ 82.			Perpetual.				
§ 83.			Perpetual.				
§ 84.			Perpetual.				
§ 85.			Perpetual.				
§ 86.			Perpetual.				
§ 87.			Perpetual.				
§ 88.			Perpetual.				
§ 89.			Perpetual.				
§ 90.			Perpetual.				
§ 91.			Perpetual.				
Sched. (A.)			Perpetual.				
Sched. (B.)			Perpetual.				
Sched. (C.)			Perpetual.				
Sched. (D.)			Perpetual.				
Sched. (E.)			Perpetual.				
Sched. (F.)			Perpetual.				
Sched. (G.)			Perpetual.				
Sched. (H.)			Perpetual.				
Sched. (I.)			Perpetual.				
Sched. (K.)			Perpetual.				
c. 45.	§§ 19	Turnpikes (Local).					
c. 46.	§§ 3	Navy Pay.					
c. 47.	§§ 2	Customs Treaties.					
c. 48.	§§ 7	Property of Lunatics.					
§ 1.			Perpetual.	Extends to other cases and purposes the 11 G. 4. and 1 W. 4. c. 65. § 28.			
§ 2			Perpetual.				
§ 3			Perpetual.	Incorporated with 11 G. 4. and 1 W. 4. c. 65. § 28.			
§ 4			Perpetual.	Explains and amends 8 & 9 Vict. c. 100. § 96.			

Session 15 & 16 Vict.—*continued.*

Statute	§§	Subject.	Duration.	Amends;	is amended by.	Repeals;	is repealed by.
15 & 16 Vict. c. 48.—*cont*		Property of Lunatics.					
§ 5.			Perpetual.				
§ 5.			Perpetual.				
§ 7.			Perpetual.	Adopts construction of 11 G. 4 and 1 W. 4. c. 65. § 2.			
" c. 49.	§ 1	Sites for Schools.	Perpetual.	Extends provisions of 4 & 5 Vict. c. 38. 7 & 8 Vict. c. 37. 12 & 13 Vict. c. 49. 13 & 14 Vict. c. 28. 14 & 15 Vict. c. 24.			
" c. 50.	§§ 38	Militia.		14 & 15 Vict. c. 32., &c., &c.			
c. 51.	§§ 55	Enfranchisement of Copyholds.					
§ 1.			Perpetual.	Extends 4 & 5 Vict. c. 35. 6 & 7 Vict. c. 23. 7 & 8 Vict. c. 55.			
§ 2.			Perpetual.				
§ 3.			Perpetual.				
§ 4.			Perpetual.				
§ 5.			Perpetual.				
§ 6.			Perpetual.				
§ 7.			Perpetual.				
§ 8.			Perpetual.				
§ 9.			Perpetual.				
§ 10.			Perpetual.				
§ 11.			Perpetual.				
§ 12.			Perpetual.				
§ 13.			Perpetual.				
§ 14.			Perpetual.				
§ 15.			Perpetual.				
§ 16.			Perpetual.				
§ 17.			Perpetual.				
§ 18.			Perpetual.				
§ 19.			Perpetual.				
§ 20.			Perpetual.				
§ 21.			Perpetual.				
§ 22.			Perpetual.				
§ 23.			Perpetual.				
§ 24.			Perpetual.				
§ 25.			Perpetual.				
§ 26.			Perpetual.				
§ 27.			Perpetual.				
§ 28.			Perpetual.				
§ 29.			Perpetual.				
§ 30.			Perpetual.				
§ 31.			Perpetual.				
§ 32.			Perpetual.				
§ 33.			Perpetual.				
§ 34.			Perpetual.				
§ 35.			Perpetual.				
§ 36.			Perpetual.				
§ 37.			Perpetual.				
§ 38.			Perpetual.				
§ 39.			Perpetual.				
§ 40.			Perpetual.				
§ 41.			Perpetual.				
§ 42.			Perpetual.				
§ 43.			Perpetual.				
§ 44.			Perpetual.				
§ 45.			Perpetual.				
§ 46.			Perpetual.				
§ 47.			Perpetual.				
§ 48.			Perpetual.				
§ 49.			Perpetual.				
§ 50.			Perpetual.				
§ 51.			Perpetual.				
§ 52.			Perpetual.				
§ 53.			Perpetual.	Incorporates 4 & 5 Vict. c. 35., &c.			
§ 54.			Perpetual.				
§ 55.			Perpetual.				
Sched. 1.			Perpetual.				
Sched. 2.			Perpetual.				
Sched. 3.			Perpetual.				
" c. 52.	§§ 5	Bishops (Colonial).					
" c. 53.	§§ 2	Bishop of Quebec.					
" c. 54.	§§ 19	County Courts.					
§ 1.			Perpetual.	Enlarges, 7 & 8 Vict. c. 96. 8 & 9 Vict. c. 127. 9 & 10 Vict. c. 95. 12 & 13 Vict. c. 101. 13 & 14 Vict. c. 61.			
§ 2.			Perpetual.	13 & 14 Vict. c. 61. § 14.		Part of 13 & 14 Vict. c. 61. § 14.	
§ 3.			Perpetual.				
§ 4.			Perpetual.				
§ 5.			Perpetual.				
§ 6.			Perpetual.				
§ 7.			Perpetual.				
§ 8.			Perpetual.				
§ 9.			Perpetual.				
§ 10.			Perpetual.	Substitute for part of 9 & 10 Vict. c. 95. § 91.		Part of 9 & 10 Vict. c. 95. § 91.	
§ 11.			The Act executed.				
§ 12.			Six months, &c.				
§ 13.			Six months, &c.				
§ 14.			Perpetual.				
§ 15.			Perpetual.				
§ 16.			Perpetual.				
§ 17.			Perpetual.				
§ 18.							
§ 19.			Tenure of present offices.				
" c. 55.	§§ 13	Trustees Act					
§ 1.			Perpetual.	Extends 13 & 14 Vict. c. 60.			
§ 2.			Perpetual.	Substitute for 13 & 14 Vict. c. 60. §§ 17, 18.		13 & 14 Vict. c. 60. §§ 17, 18.	
§ 3.			Perpetual.				
§ 4.			Perpetual.				
§ 5.			Perpetual.				
§ 6.			Perpetual.				
§ 7.			Perpetual.				

Session 15 & 16 Vict.—*continued.*

Statute.	§§	Subject.	Duration.	Amends;	is amended by.	Repeals;	is repealed by.
15 & 16 Vict. c. 55.—*cont.*	§§ 13	Trustees Act.					
§ 8.			Perpetual.				
§ 9.			Perpetual.				
§ 10.			Perpetual.				
§ 11.			Perpetual.				
§ 12.			Perpetual.	Consolidated with 13 & 14 Vict. c. 55. § 12.			
§ 13.			Perpetual.				
„ c. 56.	§§ 16	Pharmaceutical Chemists.	Executed by Act.				
§ 1.			Perpetual.				
§ 2.			Perpetual.				
§ 3.			Perpetual.				
§ 4.			Perpetual.				
§ 5.			Perpetual.				
§ 6.			The occasion.				
§ 7.			Perpetual.				
§ 8.			Perpetual.				
§ 9.			Perpetual.				
§ 10.			Perpetual.				
§ 11.			Perpetual.				
§ 12.			Perpetual.				
§ 13.			Perpetual.				
§ 14.			Perpetual.				
§ 15.			Perpetual.				
§ 16.			Perpetual.				
„ c. 57.	§§ 17	Election of M.P.'s.					
§ 1.			Perpetual.				
§ 2.			Perpetual.				
§ 3.			Perpetual.				
§ 4.			Perpetual.				
§ 5.			Perpetual.				
§ 6.			Perpetual.				
§ 7.			Perpetual.				
§ 8.			Perpetual.				
§ 9.			Perpetual.				
§ 10.			Perpetual.				
§ 11.			Perpetual.				
§ 12.			Perpetual.				
§ 13.			Perpetual.				
§ 14.			Perpetual.				
§ 15.			Perpetual.				
§ 16.			Perpetual.				
§ 17.			Perpetual.				
„ c. 58.	§§ 4	Turnpike Roads (Local).					
„ c. 59.	§ 1	Poor Law Board Continuance.	23d July 1854.				
„ c. 60.	§ 1	Savings Banks (Ireland).					
„ c. 61.	§§ 3	Excise.					
„ c. 62.	§§ 11	Land Revenues.					
„ c. 63.	§§ 48	Valuation (Ireland).			§ 39 replaced in part by 16 Vict. c. 7.		§ 39 in part by 16 Vict. c. 7.
„ c. 64.	§§ 4	Sewers Metropolis.					
§ 1.			Annually renewed.	Amends,— 11 & 12 Vict. c. 112. 12 & 13 Vict. c. 93. 14 & 15 Vict. c. 75.			
§ 2.			Annually renewed.				
§ 3.			7th August 1853.				
§ 4.			Salvo of permanent provisions.	Confirms permanent provisions in 12 & 13 Vict. c. 93.			
c. 65.	§§ 4	Friendly Societies.					
§ 1.			Annually renewed (1st October 1853).	Declares in force the Acts passed before 10 G. 4. c. 56. (and repealed by it?) or by 13 & 14 Vict. c. 115?).			
§ 2.			1st October 1853.				
§ 3.			1st October 1853.				
§ 4.			1st October 1853.	Continues 13 & 14 Vict. c. 115.			
„ c. 66.	§ 1	Crime (Ireland).					
„ c. 67.	§ 1	Incumbered Estates (Ireland).					
„ c. 68.	§ 1	Fines, &c. (Ireland).					
„ c. 69.	§§ 9	Board of Health Provisional Orders (Local).		Complementary to 11 & 12 Vict. c. 63.			
„ c. 70.	§ 1	Prison of the City of London.	Perpetual.	Declaration *non obstante* 4 G. 4. c. 64. (68?) adopts that Act.			
„ c. 71.	§§ 2	Thames Embankment, Board of Works.					
„ c. 72.	§§ 82	Constitution of (New Zealand).					
„ c. 73.	§§ 32	Nisi Prius Officers.					
§ 1.			Executed by the Act. 24th October 1852.				
§ 2.			The occasion. 24th October 1852.				
§ 3.			Perpetual.				
§ 4.			Perpetual.				
§ 5.			Perpetual.				
§ 6.			Perpetual.				
§ 7.			Perpetual.				
§ 8.			Perpetual.				
§ 9.			The present officers [illegible].				
§ 10.			Perpetual.				
§ 11.			Perpetual.				
§ 12.			Perpetual.				

Session 15 & 16 Vict.—*continued.*

Statute.	§§	Subject.	Duration.	Amends;	is amended by.	Repeals;	is repealed by.
15 & 16 Vict. c. 73.—*cont.*	§§ 32	Nisi Prius Officers.					
§ 13.			Perpetual.				
§ 14.			Perpetual.				
§ 15.			Perpetual.				
§ 16.			Perpetual.				
§ 17.			Perpetual.				
§ 18.			Perpetual.				
§ 19.			Perpetual.				
§ 20.			Perpetual.				
§ 21.			Perpetual.				
§ 22.			The occasion.				
§ 23.			The occasion.				
§ 24.			The lives of present officers.				
§ 25.			Perpetual.				
§ 26.			Perpetual.				
§ 27.			Perpetual.				
§ 28.			Executed by the Act.				
§ 29.			Perpetual.				
§ 30.			Perpetual.				
§ 31.			Executed by the Act.				
§ 32.			Perpetual.				
Sched (A.)			Executed by the Act.				
Sched (B.)			Perpetual.				
Sched. (C.)			Perpetual.				
„ c. 74.	§ 1	Militia.					
„ c. 75.	§§ 3	Militia.					
„ c. 76.	§§ 236	Process, Practice, and Pleading. "Common Law Procedure."					
§ 1.			Perpetual.				
§ 2.			Perpetual.				
§ 3.			Perpetual.				
§ 4.			Perpetual.				
§ 5.			Perpetual.				
§ 6.			Perpetual.				
§ 7.			Perpetual.				
§ 8.			Perpetual.				
§ 9.			Perpetual.				
§ 10.			Executed by the Act.				
§ 11.			Perpetual.	Replaces 2 W. 4. c. 39. § 10.		2 W. 4. c. 39. § 10.	
§ 12.			Perpetual.	Do.			
§ 13.			Perpetual.	Do.			
§ 14.			Perpetual.				
§ 15.			Perpetual.				
§ 16.			Perpetual.				
§ 17.			Perpetual.				
§ 18.			Perpetual.				
§ 19.			Perpetual.				
§ 20.			Perpetual.				
§ 21.			Perpetual.				
§ 22.			Perpetual.				
§ 23.			Perpetual.				
§ 24.			Executed by Act.			2 W. 4. c. 39. §§ 3, 5 (6?) (qu. 4, 7?)	
§ 25.			Perpetual.				
§ 26.			Executed by the Act.	Replaces part of 12 G. 1. c. 27. § 1. and the whole of 2 W. 4. c. 39. § 2., and Schedule No. 2.		Part of 12 G. 1. c. 29. § 1. Part of 2 W. 4. c. 29. § 2. and of Schedule.	
§ 27.			Perpetual.	Do.			
§ 28.			Perpetual.	Do.			
§ 29.			Perpetual.	Do.			
§ 30.			Perpetual.	Do.			
§ 31.			Perpetual.				
§ 32.			Perpetual.				
§ 33.			Perpetual.				
§ 34.			Perpetual.				
§ 35.			Perpetual.	Adopts 3 & 4 W. 4. c. 42. § 23. qu. 24?			
§ 36.			Perpetual.				
§ 37.			Perpetual.				
§ 38.			Perpetual.				
§ 39.			Perpetual.				
§ 40.			Perpetual.				
§ 41.			Perpetual.				
§ 42.			Perpetual.				
§ 43.			Perpetual.				
§ 44.			Perpetual.				
§ 45.			Perpetual.				
§ 46.			Perpetual.				
§ 47.			Perpetual.				
§ 48.			Perpetual.				
§ 49.			Perpetual.				
§ 50.			Perpetual.				
§ 51.			Perpetual.				
§ 52.			Perpetual.				
§ 53.			Perpetual.				
§ 54.			Perpetual.				
§ 55.			Perpetual.				
§ 56.			Perpetual.				
§ 57.			Perpetual.				
§ 58.			Perpetual.				
§ 59.			Perpetual.				
§ 60.			Perpetual.				
§ 61.			Perpetual.				
§ 62.			Perpetual.				
§ 63.			Perpetual.				
§ 64.			Perpetual.				
§ 65.			Perpetual.				
§ 66.			Perpetual.				
§ 67.			Perpetual.				
§ 68.			Perpetual.				
§ 69.			Perpetual.				
§ 70.			Perpetual.	Salvo of 6 & 7 Vict. c. 92. § 2.			
§ 71.			Perpetual.				
§ 72.			Perpetual.				
§ 73.			Perpetual.				
§ 74.			Perpetual.				
§ 75.			Perpetual.				
§ 76.			Perpetual.				
§ 77.			Perpetual.				
§ 78.			Perpetual.				
§ 79.			Perpetual.				
§ 80.			Perpetual.				
§ 81.			Perpetual.				
§ 82.			Perpetual.				

Session 15 & 16 Vict.—*continued.*

Statute.	§§	Subject.	Duration.	Amends;	is amended by.	Repeals;	is repealed by
15 & 16 Vict. c. 76.—*cont.*	§§ 236	Process, Practice, and Pleading. "Common Law Procedure."					
§ 83.			Perpetual.				
§ 84.			Perpetual.				
§ 85.			Perpetual.				
§ 86.			Perpetual.				
§ 87.			Perpetual.				
§ 88.			Perpetual.				
§ 89.			Perpetual.				
§ 90.			Perpetual.				
§ 91.			Perpetual.				
§ 92.			Perpetual.				
§ 93.			Perpetual.				
§ 94.			Perpetual.				
§ 95.			Perpetual.				
§ 96.			Perpetual.	Salvo of 8 & 9 W. 3. c. 11. § 8.			
§ 97.			Perpetual.				
§ 98.			Perpetual.				
§ 99.			Perpetual.				
§ 100.			Executed by the Act.			14 G. 2. c. 17. s. 3.	
§ 101.			Perpetual.				
§ 102.			Perpetual.				
§ 103.			Perpetual.				
§ 104.			Perpetual.				
§ 105.			Perpetual.				
§ 106.			Perpetual.				
§ 107.			Perpetual.				
§ 108.			Perpetual.				
§ 109.			Perpetual.				
§ 110.			Perpetual.				
§ 111.			Perpetual.				
§ 112.			Perpetual.				
§ 113.			Perpetual.				
§ 114.			Perpetual.				
§ 115.			Perpetual.				
§ 116.			Perpetual.				
§ 117.			Perpetual.				
§ 118.			Perpetual.				
§ 119.			Perpetual.				
§ 120.			Perpetual.				
§ 121.			Perpetual.				
§ 122.			Perpetual.				
§ 123.			Perpetual.				
§ 124.			Perpetual.				
§ 125.			Perpetual.				
§ 126.			Perpetual.				
§ 127.			Perpetual.				
§ 128.			Perpetual.				
§ 129.			Perpetual.				
§ 130.			Perpetual.				
§ 131.			Perpetual.				
§ 132.			Perpetual.				
§ 133.			Perpetual.				
§ 134.			Perpetual.				
§ 135.			Perpetual.				
§ 136.			Perpetual.				
§ 137.			Perpetual.				
§ 138.			Perpetual.				
§ 139.			Perpetual.				
§ 140.			Perpetual.				
§ 141.			Perpetual.				
§ 142.			Perpetual.				
§ 143.			Perpetual.	Amends and extends 1 W. 4. c. 7. § 4.			
§ 144.			Perpetual.	Do.			
§ 145.			Perpetual.	Do.			
§ 146.			Perpetual.				
§ 147.			Perpetual.				
§ 148.			Perpetual.			Writ of error abolished. Substitute.	
§ 149.			Perpetual.				
§ 150.			Perpetual.				
§ 151.			Perpetual.				
§ 152.			Perpetual.				
§ 153.			Perpetual.				
§ 154.			Perpetual.				
§ 155.			Perpetual.				
§ 156.			Perpetual.				
§ 157.			Perpetual.				
§ 158.			Perpetual.				
§ 159.			Perpetual.				
§ 160.			Perpetual.				
§ 161.			Perpetual.				
§ 162.			Perpetual.				
§ 163.			Perpetual.				
§ 164.			Perpetual.				
§ 165.			Perpetual.				
§ 166.			Perpetual.				
§ 167.			Perpetual.				
§ 168.			Perpetual.			Abolishes proceedings in ejectment. Substitute.	
§ 169.			Perpetual.				
§ 170.			Perpetual.				
§ 171.			Perpetual.				
§ 172.			Perpetual.				
§ 173.			Perpetual.				
§ 174.			Perpetual.				
§ 175.			Perpetual.				
§ 176.			Perpetual.				
§ 177.			Perpetual.				
§ 178.			Perpetual.				
§ 179.			Perpetual.				
§ 180.			Perpetual.				
§ 181.			Perpetual.				
§ 182.			Perpetual.				
§ 183.			Perpetual.				
§ 184.			Perpetual.				
§ 185.			Perpetual.				
§ 186.			Perpetual.				
§ 187.			Perpetual.				
§ 188.			Perpetual.				
§ 189.			Perpetual.				
§ 190.			Perpetual.				
§ 191.			Perpetual.				
§ 192.			Perpetual.				
§ 193.			Perpetual.				
§ 194.			Perpetual.				
§ 195.			Perpetual.				

Session 15 & 16 Vict. – *continued.*

Statute.	§§	Subject.	Duration.	Amends;	is amended by.	Repeals;	is repealed by.
15 & 16 Vict. c. 76.—*cont.*	§§ 236	Process, Practice, and Pleading. "Common Law Procedure."					
§ 196.			Perpetual.				
§ 197.			Perpetual.				
§ 198.			Perpetual.				
§ 199.			Perpetual.				
§ 200.			Perpetual.				
§ 201.			Perpetual.				
§ 202.			Perpetual.				
§ 203.			Perpetual.				
§ 204.			Perpetual.				
§ 205.			Perpetual.				
§ 206.			Perpetual.				
§ 207.			Perpetual.				
§ 208.			Perpetual.				
§ 209.			Perpetual.				
§ 210.			Perpetual.				
§ 211.			Perpetual.				
§ 212.			Perpetual.				
§ 213.			Perpetual.				
§ 214.			Perpetual.				
§ 215.			Perpetual.				
§ 216.			Perpetual.				
§ 217.			Perpetual.				
§ 218.			Perpetual.				
§ 219.			Perpetual.				
§ 220.			Perpetual.				
§ 221.			Perpetual.				
§ 222.			Perpetual.				
§ 223.			Perpetual.	Adopts provisions of 13 & 14 Vict. c. 16.			
§ 224.			Perpetual.				
§ 225.			Perpetual.				
§ 226.			Perpetual.				
§ 227.			Perpetual.				
§ 228.			Perpetual.				
§ 229.			Perpetual.	Extension to Lancaster and Durham. See 2 & 3 Vict. c. 16., 4 & 5 W. 4. c. 62.			
§ 230.			Perpetual.	Do.			
§ 231.			Perpetual.	Do.			
§ 232.			Perpetual.	Do.			
§ 233.			Perpetual.	Do.			
§ 234.			Executed by the Act.			4 & 5 W. 4. c. 62. § 8. 2 & 3 Vict. c. 16. § 6.	
§ 235.			Executed by the Act.				
§ 236.			Executed by the Act.				
Sched. (A.)			Executed by the Act.				
Sched. (B.)			Executed by the Act.				
„ c. 77.	§§ 14	Bankruptcy.					
§ 1.			Executed by Act.			Abolishes office of Lord Chancellor's Secretary in Bankruptcy.	
§ 2.			Perpetual.				
§ 3.			Perpetual.				
§ 4.			Perpetual.	Some Act or Acts. (?)			
§ 5.			Perpetual.	12 & 13 Vict. c. 106. § 192.			
§ 6.			Perpetual.				
§ 7.			Life of R. Brown.				
§ 8.			Term of service of E. W. Smith; the rest perpetual.				
§ 9.			Retroactive confirmation.				
§ 10.			Term of service of present officer.				
§ 11.			Part executed. Part perpetual.			Abolishes office of Clerk of Emoluments in Bankruptcy.	
§ 12.			Six months; and, if so ordered, the life of the officer.				
§ 13.			The duration of the provisions of the Act.				
§ 14.			The same.				
„ c. 78.	§§ 12	Commissioners of Works.					
„ c. 79.	§§ 35	Enclosure, Exchange, and Improvement of Land.	Powers for two years. Effect perpetual.				
§ 1.			Perpetual.	8 & 9 Vict. c. 118. § 3.; and extends §§ 12, 14.			
§ 2.			Perpetual.	Extends 10 & 11 Vict. c. 38. § 4. (18?)			
§ 3.			Perpetual.	8 & 9 Vict. c. 118. § 126.			
§ 4.			Perpetual.	Adopts 8 & 9 Vict. c. 118. §§ 142—144. (and qu. 134—141?).			
§ 5.			Perpetual.				
§ 6.			Perpetual.				
§ 7.			Perpetual.				
§ 8.			Perpetual.				
§ 9.			Perpetual.				
§ 10.			Perpetual.				
§ 11.			Perpetual.	8 & 9 Vict. c. 118. §§ 137, 142.			
§ 12.			Perpetual.	8 & 9 Vict. c. 118. § 142.			
§ 13.			Perpetual.	8 & 9 Vict. c. 118. §§ 46, 57., and adopts 1 & 2 Vict. c. 74.			
§ 14.			Perpetual.	8 & 9 Vict. c. 118. §§ 15, 30, 73. (74?).			
§ 15.			Perpetual.	8 & 9 Vict. c. 118. § 102.			
§ 16.			Perpetual.	8 & 9 Vict. c. 118. § 99.			
§ 17.			Perpetual.	8 & 9 Vict. c. 118. §§ 90 – 92, 147—151. Extends,— 9 & 10 Vict. c. 79. §§ 9, 11. 11 & 12 Vict. c. 99. §§ 13, 14. 12 & 13 Vict. c. 83. §§ 7, 11.			
§ 18.			Perpetual.	8 & 9 Vict. c. 118. § 75.			

Session 15 & 16 Vict.—*continued.*

Statute.	§§	Subject.	Duration.	Amends:	is amended by.	Repeals:	is repealed by.
15 & 16 Vict. c. 79.—*cont.*	§§ 35	Enclosure, Exchange, and Improvement of Land.					
§ 19.			Perpetual.	8 & 9 Vict. c. 118. §§ 75, 142–144.			
§ 20.			Perpetual.	8 & 9 Vict. c. 118. § 54.			
§ 21.			Perpetual.	Combines 8 & 9 Vict. c. 118. §§ 30. 73. 140. (&c. !) with §§ 90–92. 147–151., and 9 & 10 Vict. c. 70. §§ 9. 11., 11 & 12 Vict. c. 99. §§ 13, 14., 12 & 13 Vict. c. 83. §§ 7. 11.			
§ 22.			Perpetual.	"Lands Clauses Consolidation Act, 1845," 8 & 9 Vict. c. 18. §§ 99–107., and Railway and Special Acts.			
§ 23.			Perpetual.	8 & 9 Vict. c. 118. §§ 39–43. 124–126. 132. 12 & 13 Vict. c. 83. §§ 1, 9.			
§ 24.			Perpetual.	8 & 9 Vict. c. 118. § 43.			
§ 25.			Perpetual.	8 & 9 Vict. c. 118. §§ 39. 44.			
§ 26.			Perpetual.	8 & 3 Vict. c. 118. § 44.			
§ 27.			Perpetual.	8 & 9 Vict. c. 118. § 146.			
§ 28.			Perpetual.	Extends 12 & 13 Vict. c. 83. § 1.			
§ 29.			Perpetual.	8 & 9 Vict. c. 118. § 105.			
§ 30.			Perpetual.	8 & 9 Vict. c. 118. § 104.			
§ 31.			Perpetual.	Extends 8 & 9 Vict. c. 118. § 90.			
§ 32.			Perpetual.	Extends 8 & 9 Vict. c. 118. §§ 90. 92.			
§ 33.			Perpetual.	8 & 9 Vict. c. 118. §§ 113–122. Adopts 7 & 8 G. 4. c. 30. §§ 24. 29–31. 33–41.			
§ 34.			Perpetual.				
§ 35.			Perpetual.				
Sched.			Perpetual.	Substituted for schedule 1 & 2 Vict. c. 74.			
„ c. 80.	§§ 61	Court of Chancery.					
§ 1.			Executed, with transitory salvo.			Abolishes office of Master in Chancery. Prohibits future Appointments.	
§ 2.			Perpetual.			These repeal,— 3 & 4 W. 4. c. 94. §§ 13–19. 34. part, 37. part, 39, 40, 41. part, 43. part, 48. part, 50, 51. and part of schedule.	
§ 3.			Transitory till completion of business.				
§ 4.			Transitory till completion of business.				
§ 5.			The lives of the officers.	Incorporates 3 & 4 W. 4. c. 94. § 39.		Supersedes 46 G. 5. c. 128. § 2.	
§ 6.			The lives of the officers.				
§ 7.			Transitory till completion of business.				
§ 8.			Transitory till completion of business.				
§ 9.			Transitory.				
§ 10.			Transitory.				
§ 11.			Perpetual.	Extension of duties and powers of Master of Rolls and Vice Chancellors.			
§ 12.			Perpetual.				
§ 13.			Perpetual.				
§ 14.			Perpetual.				
§ 15.			Perpetual.				
§ 16.			Perpetual.				
§ 17.			Perpetual.				
§ 18.			Perpetual.				
§ 19.			Perpetual.				
§ 20.			Perpetual.				
§ 21.			Perpetual.				
§ 22.			Perpetual.				
§ 23.			Perpetual.				
§ 24.			Perpetual.	Adopts penalties in 3 & 4 W. 4. c. 94. §§ 41, 42.			
§ 25.			Perpetual.				
§ 26.			Perpetual.				
§ 27.			Perpetual.				
§ 28.			Perpetual.				
§ 29.			Perpetual.				
§ 30.			Perpetual.				
§ 31.			Perpetual.				
§ 32.			Perpetual.				
§ 33.			Perpetual.				
§ 34.			Perpetual.				
§ 35.			Perpetual.			3 & 4 W. 4. c. 94. §§ 13, 14, 15	
§ 36.			Perpetual.				
§ 37.			Perpetual.				
§ 38.			Perpetual.				
§ 39.			Contingent and perpetual.			Abolishes contingently the previous practice.	
§ 40.			Perpetual.				
§ 41.			Perpetual.				
§ 42.			Perpetual.				
§ 43.			Perpetual.				
§ 44.			Perpetual.				
§ 45.			Perpetual.				
§ 46.			Lives of present officers.				
§ 47.			Lives of present officers.				
§ 48.			Perpetual.				
§ 49.			Lives of present officers.				
§ 50.			Lives of present officers.				

Session 15 & 16 Vict.—*continued.*

Statute.	§§	Subject.	Duration.	Amends;	is amended by.	Repeals;	is repealed by.
15 & 16 Vict. c. 80.—*cont.* § 51.	§§ 61	Court of Chancery.	The occasion.			Supersedes 32 G. 3. c. 42. §§ 4, 5. (in part?). 5 Vict. sess. 1. c. 5. § 21.	
§ 52.			Perpetual.	5 Vict. sess. 1. c. 5. §§ 19, 20. 14 & 15 Vict. c. 4. §§ 1. 7.			
§ 53.			Perpetual.	Adopts and amends 14 & 15 Vict. c. 4.			
§ 54.			Perpetual.				
§ 55.			Perpetual.	Adopts 14 & 15 Vict. c. 4. § 4., and 5 Vict. sess. 1. c. 5. § 26.			
§ 56.			Perpetual.	Adopts 5 Vict. sess. 1. c. 5. § 36.			
§ 57.			Perpetual.	Adopts existing practices in like cases (?).			
§ 58.			The occasion.	Adopts existing practice.			
§ 59.			Perpetual.	Salvo of Accountant General's office.			
§ 60.			Perpetual.				
§ 61.			Perpetual.				
„ c. 81.	§§ 52	County Rates.				12 G. 2. c. 29. §§ 1–4, 5 (?), 6–9, (10, 11, 12?), 15. (17, 18?), 19, (20, 21. 23?). 13 G. 2. c. 18. § 7. 37 G. 3. c. 65. 55 G. 3. c. 51. §§ 1–16. 18–24. 56 G. 3. c. 49. 57 G. 3. c. 94. 1 & 2 G. 4. c. 85. 1 W. 4. c. xlviii. 4 & 5 W. 4. c. 48. 8 & 9 Vict. c. 111. 12 & 13 Vict. c. 65. § 1. in part.	
§ 1.			Operated by the Act.				
§ 2.			Perpetual.				
§ 3.			Perpetual.				
§ 4.			Perpetual.				
§ 5.			Perpetual.				
§ 6.			Perpetual.				
§ 7.			Perpetual.				
§ 8.			Perpetual.				
§ 9.			Perpetual.				
§ 10.			Perpetual.				
§ 11.			Perpetual.				
§ 12.			Perpetual.				
§ 13.			Perpetual.				
§ 14.			Perpetual.				
§ 15.			Perpetual.				
§ 16.			Perpetual.				
§ 17.			Perpetual.	12 & 13 Vict. c. 65. § 1.			
§ 18.			Perpetual.				
§ 19.			Perpetual.				
§ 20.			Perpetual.				
§ 21.			Perpetual.				
§ 22.			Perpetual.				
§ 23.			Perpetual.				
§ 24.			Perpetual.				
§ 25.			Perpetual.				
§ 26.			Perpetual.				
§ 27.			Perpetual.				
§ 28.			Perpetual.				
§ 29.			Perpetual.				
§ 30.			Perpetual.				
§ 31.			Perpetual.				
§ 32.			Perpetual.	12 & 13 Vict. c. 65. § 1.			
§ 33.			Perpetual.				
§ 34.			Perpetual.				
§ 35.			Perpetual.				
§ 36.			Perpetual.				
§ 37.			Perpetual.				
§ 38.			Perpetual.	5 & 6 W. 4. c. 76. §§ 114. 117.			
§ 39.			Perpetual.				
§ 40.			Perpetual.				
§ 41.			Perpetual.				
§ 42.			Perpetual.				
§ 43.			Perpetual.				
§ 44.			Perpetual.				
§ 45.			Perpetual.				
§ 46.			Perpetual.				
§ 47.			Perpetual.	All particular Acts of counties in like matters.		Allows substitution of this Act for all particular Acts of counties.	
§ 48.			Perpetual.				
§ 49.			Perpetual.				
§ 50.			Perpetual.				
§ 51.			Perpetual.				
§ 52.			Perpetual.				
Schedule			Perpetual.				
„ c. 82.	§§ 32	Supplies.	The year 1852.				
„ c. 83.	§§ 57	Patents for Inventions.					
§ 1.			Perpetual.				
§ 2.			Perpetual.				
§ 3.			Perpetual.				
§ 4.			Perpetual.				
§ 5.			Perpetual.				
§ 6.			Perpetual.				
§ 7.			Perpetual.				
§ 8.			Perpetual.				
§ 9.			Perpetual.				
§ 10.			Perpetual.				
§ 11.			Perpetual.				
§ 12.			Perpetual.				
§ 13.			Perpetual.				
§ 14.			Perpetual.				
§ 15.			Perpetual.				
§ 16.			Perpetual.				
§ 17.			Ceased.		Replaced by 16 Vict. c. 5. §§ 2. 7.		16 Vict. c. 5. § 1.
§ 18.			Perpetual.				
§ 19.			Perpetual.				
§ 20.			Perpetual.				

Session 15 & 16 Vict.—*continued.*

Statute.	§§	Subject.	Duration.	Amends;	is amended by.	Repeals;	is repealed by.
15 & 16 Vict. c. 83.—*cont.*	§§ 57	Patents for Inventions.					
§ 21.			Perpetual.				
§ 22.			Perpetual.				
§ 23.			Perpetual.				
§ 24.			Perpetual.				
§ 25.			Perpetual.				
§ 26.			Perpetual.				
§ 27.			Perpetual.				
§ 28.			Perpetual.				
§ 29.			Perpetual.				
§ 30.			Perpetual.				
§ 31.			Perpetual.				
§ 32.			Perpetual.		16 Vict. c. 5. § 8.		
§ 33.			Perpetual.				
§ 34.			Perpetual.				
§ 35.			Perpetual.				
§ 36.			Perpetual.				
§ 37.			Perpetual.				
§ 38.			Perpetual.	Adopts and amends,—5 & 6 W. 4. c. 83. § 1. 7 & 8 Vict. c. 69. §§ 5–6.			
§ 39.			Perpetual.				
§ 40.			Perpetual.	Adopts and amends,—5 & 6 W. 4. c. 83. § 4. 2 & 3 Vict. c. 67. § 2. 7 & 8 Vict. c. 69. §§ 2–4.			
§ 41.			Perpetual.				
§ 42.			Perpetual.				
§ 43.			Perpetual.				
§ 44.			Ceased.		Replaced 16 Vict. c. 5. § 3.		16 Vict. c. 5.
§ 45.			Ceased.		Replaced 16 Vict. c. 5. § 5.		16 Vict. c. 5. § 1.
§ 46.			Ceased.				16 Vict. c. 5. § 1.
§ 47.			Perpetual.		16 Vict. c. 5. § 3.		
§ 48.							
§ 49.							
§ 50.							
§ 51.							
§ 52.			Transitory.				
§ 53.			Ceased.		Replaced 16 Vict. c. 5. § 4.		16 Vict. c. 5. § 1.
§ 54.							
§ 55.							
§ 56.							
§ 57.							
Schedule					16 Vict. c. 5. § 7.		Partly by 16 Vict. c. 5. § 1.
c. 84.	§§ 29	Water Supply (Metropolis).					
§ 1.			Perpetual from 31st August 1855 and 31st August 1856.				
§ 2.			Perpetual from 31st December 1855.				
§ 3.			Perpetual from 31st December 1855.				
§ 4.			Perpetual.				
§ 5.			Perpetual.				
§ 6.			Perpetual.				
§ 7.			Perpetual.				
§ 8.			Perpetual.				
§ 9.			Perpetual.				
§ 10.			Perpetual.				
§ 11.			Perpetual.				
§ 12.			Perpetual.				
§ 13.			Perpetual.				
§ 14.			Perpetual.				
§ 15.			Perpetual from 1st July 1857.				
§ 16.			Perpetual.				
§ 17.			Perpetual.				
§ 18.			Perpetual.				
§ 19.			Perpetual.				
§ 20.			Perpetual.				
§ 21.			Perpetual.				
§ 22.			Perpetual.				
§ 23.			Perpetual.				
§ 24.			Perpetual.				
§ 25.			Perpetual.				
§ 26.			Perpetual.				
§ 27.			Perpetual.				
§ 28.			Perpetual.				
§ 29.			Perpetual.				
Schedule			Perpetual.				
c. 85.	§§ 54	Burial of the Dead (Metropolis).					
§ 1.			Repeal operated by Act. Continuance contingent.	Continues § 43. and part of § 2. of 13 & 14 Vict. c. 52., concurrently with 11 & 12 Vict. c. 63. § 7.		13 & 14 Vict. c. 52., except part of § 2. and § 43.	
§ 2.			Perpetual.				
§ 3.			Perpetual.				
§ 4.			Perpetual.				
§ 5.			Perpetual.				
§ 6.			Perpetual.				
§ 7.			Perpetual.				
§ 8.			Perpetual.				
§ 9.			Perpetual.				
§ 10.			Perpetual.				
§ 11.			Perpetual.				
§ 12.			Perpetual.				
§ 13.			Perpetual.				
§ 14.			Perpetual.				
§ 15.			Perpetual.				
§ 16.			Perpetual.				
§ 17.			Perpetual.				
§ 18.			Perpetual.				
§ 19.			Perpetual.				
§ 20.			Perpetual.				
§ 21.			Perpetual.				
§ 22.			Perpetual.				
§ 23.			Perpetual.				
§ 24.			Perpetual.				
§ 25.			Perpetual.				
§ 26.			Perpetual.				
			Perpetual.	Incorporates 8 & 9 Vict. c. 18. §§ 1–15. 69–125.			

Sesssion 15 & 16 Vict.—*continued.*

Statute.	§§	Subject.	Duration.	Amends;	is amended by.	Repeals;	is repealed by.
15 & 16 Vict. 85.—*cont.*	§ 54	Burial of the Dead (Metropolis).					
§ 28.			Perpetual.	Incorporates 8 & 9 Vict. c. 18. § 132.			
§ 29.			Perpetual.				
§ 30.			Perpetual.				
§ 31.			Perpetual.				
§ 32.			Perpetual.				
§ 33.			Perpetual.				
§ 34.			Perpetual.				
§ 35.			Perpetual.				
§ 36.			Perpetual.				
§ 37.			Perpetual.				
§ 38.			Perpetual.				
§ 39.			Perpetual.				
§ 40.			Perpetual.	Incorporates 10 & 11 Vict. c. 65. §§ 58–61.			
§ 41.			Perpetual.				
§ 42.			Perpetual.				
§ 43.			Perpetual.	Salvo for London. Consolidation of this Act with 11 & 12 Vict. c. clxiii., 14 & 15 Vict. c. cxi.			
§ 44.			Perpetual.				
§ 45.			Perpetual.	Extension of 14 & 15 Vict. c. 42. § 27.			
§ 46.			The occasion.	Applies to the case the 14 & 15 Vict. c. 89. §§ 1, 2. (otherwise repealed ?)			
§ 47.			The occasion.				
§ 48.			The occasion.	Applies to the case the 14 & 15 Vict. c. 89. § 2.			
§ 49.			Perpetual.				
§ 50.			Perpetual.	Act applied to the Local Acts described.			
§ 51.			The occasion.				
§ 52.			Contemporaneous with related provisions.				
§ 53.			Contemporaneous with related provisions.				
§ 54.			Perpetual.	Salvo of,— 2 & 3 W. 4. c. cx. 6 & 7 W. 4. c. cxxix. ——— c. cxxxvi. 1 Vict. c. cxxx. 4 & 5 Vict. c. lxiii.			
Sched. (A.)			Perpetual.				
Sched. (B.)			Perpetual.				
c. 86.	§§ 67	Practice and Proceeding in Chancery.					
§ 1.			Perpetual.			Abolishes engrossment on parchment.	
§ 2.			Perpetual.			Abolishes writs of subpœna and summons.	
§ 3.			Perpetual.	Substitute for practices abolished in §§ 1, 2.			
§ 4.			Perpetual.				
§ 5.			Perpetual.				
§ 6.			Perpetual.				
§ 7.			Perpetual.				
§ 8.			Perpetual.				
§ 9.			Perpetual.	Enables Lord Chancellor to revive the practice abolished in §§ 1, 2.		Enables Lord Chancellor to dispense with the statute.	
§ 10.			Perpetual.				
§ 11.			Perpetual.				
§ 12.			Perpetual.				
§ 13.			Perpetual.				
§ 14.			Perpetual.				
§ 15.			Perpetual.				
§ 16.			Perpetual.				
§ 17.			Perpetual.			Abolishes exceptions for imperative cause.	
§ 18.			Perpetual.				
§ 19.			Perpetual.			Abolishes commissions to take pleas, &c., within the jurisdiction of the court.	
§ 20.			Perpetual.				
§ 21.			Perpetual.				
§ 22.			Perpetual.				
§ 23			Perpetual.	Extends penalties of perjury.			
§ 24.			Perpetual.	Extends law of forgery. Adopts penalties in 8 & 9 Vict. c. 113. § 4.			
§ 25.			Perpetual.				
§ 26.			Perpetual.				
§ 27.			Perpetual.				
§ 28.			Perpetual.			Abolishes practice as to examination of witnesses.	
§ 29.			Perpetual.	Substitute for practice abolished.			
§ 30.			Perpetual.				
§ 31.			Perpetual.				
§ 32.			Perpetual.				
§ 33.			Perpetual.				
§ 34.			Perpetual.				
§ 35.			Perpetual.				
§ 36.			Perpetual.				
§ 37.			Perpetual.				
§ 38.			Perpetual.				
§ 39.			Perpetual.				
§ 40.			Perpetual.				
§ 41.			Perpetual.				
§ 42.			Perpetual.			Certain objections for want of parties.	

Session 15 & 16 Vict.—*continued.*

Statute.	§§	Subject.	Duration.	Amends;	is amended by.	Repeals;	is repealed by:
15 & 16 Vict. c. 86.	§§ 54	Practice and Proceedings in Chancery.					
§ 43.						Abolishes the setting down a cause on objection for want of parties.	
§ 44.			Perpetual.				
§ 45.			Perpetual.				
§ 46.			Perpetual.				
§ 47.			Perpetual.				
§ 48.			Perpetual.				
§ 49.			Perpetual.				
§ 50.			Perpetual.				
§ 51.			Perpetual.				
§ 52.			Perpetual.				
§ 53.			Perpetual.				
§ 54.			Perpetual.				
§ 55.			Perpetual.				
§ 56.			Perpetual.				
§ 57.			Perpetual.				
§ 58.			Perpetual.				
§ 59.			Perpetual.				
§ 60.			Perpetual.				
§ 61.			Perpetual.				
§ 62.			Perpetual.				
§ 63.			Perpetual.				
§ 64.			Perpetual.				
§ 65.			Perpetual; part transitory.	50 G. 3. c. clxiv. § 15.	Explained and amended 16 Vict. c. 22. §§ 1, 3.		
§ 66.			Contemporaneous with related provisions.				
§ 67.			Provisional till 1 November 1852.				
Schedule							
" c. 87.	§§ 55	Court of Chancery.					
§ 1.			Perpetual; part for lives of present officers.			Abolishes fees, use of officers.	
§ 2.			Provisional till order made.				
§ 3.			Perpetual.				
§ 4.			Perpetual.				
§ 5.			Perpetual.			Abolishes allowances for copying.	
§ 6.			Perpetual.				
§ 7.			Perpetual.				
§ 8.			Perpetual.				
§ 9.			Perpetual.				
§ 10.			Perpetual.				
§ 11.			Perpetual.	Adapts provisions of the Stamp Acts to this Act.			
§ 12.			Perpetual.				
§ 13.			Perpetual.				
§ 14.			The occasions?	Salvo of limit in 5 & 6 Vict. c. 84. §§ 11–16. and other Acts (?).		Enables Lord Chancellor to abolish fees in Lunacy.	
§ 15.			Contemporaneous with the related provisions.	Extends 11 G. 4. and 1 W. 4. c. 65., 13 & 14 Vict. c. 60., and any other Act or Acts (?).			
§ 16.			Perpetual.	Adopts 14 & 15 Vict. c. 83. § 17. Amends 5 Vict. sess. 1. c. 5. § 35., 14 & 15 Vict. c. 4. § 4.			
§ 17.			Operated by the Act.			5 Vict. sess. 1. c. 5. § 61.	
§ 18.							
§ 19.							
§ 20.							
§ 21.							
§ 22.							
§ 23.			Operated by the Act.	Substitution for duties of officers abolished. Adopts 3 & 4 W. 4 c. 84. §§ 2, 4., and amends 2 & 3 W. 4. c. 111.		Abolishes offices of Keeper or Clerk of Her Majesty's Hanaper: Deputy Clerk of the Hanaper: Secretary of Decrees and Injunctions: One of the Gentlemen of the Chamber attending the Great Seal: Chaff-Wax: Deputy Chaff-Wax: Sealer: Deputy Sealer.	
§ 24.							
§ 25.							
§ 26.							
§ 27.							
§ 28.							
§ 29.							
§ 30.							
§ 31.							
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§ 41.							
§ 42.							
§ 43.							
§ 44.							
§ 45.							
§ 46.							
§ 47.							
§ 48.							
§ 49.							

Session 15 & 16 Vict.—*continued.*

Statute.	§§	Subject.	Duration.	Amends;	is amended by.	Repeals;	is repealed by.
15 & 16 Vict. c. 86.							
§ 50.							
§ 51.							
§ 52.							
§ 53.							
§ 54.							
§ 55.							
„ c. 88.							

Statute.	§§	Subject.	Duration.	Amends;	is amended by.	Repeals;	is repealed by.
16 Vict. c. 1.	§§ 3	Bills of Exchequer payable on the day of the funeral of the Duke of Wellington.	The occasion (17th, 18th, 19th November 1853).	Adopts for the occasion 7 & 8 G. 4. c. 15.			
§ 2.				6 & 7 W. 4. c. 58.			
§ 2.							
§ 3.							
,, c. 2.	§ 1	Bank Notes and Signature.	Perpetual.	Explains and extends 1 G. 4. c. 92. § 3.		Quere, supersedes 1 G. 4. c. 92. § 3.	
,, c. 3.	§§ 2	Annual Enclosure, 2d, (1852.)	Occasion; with perpetual effect.	Supplements 8 & 9 Vict. c. 118. §§ 3. 27. 32. 94.			
§ 1.							
§ 2.							
Schedule.							
,, c. 4.	§ 1	Colonial Loans.					
,, c. 5.	§§ 10	Patents, Stamp Duties.					
§ 1.			Perpetual.			15 & 16 Vict. c. 83. §§ 17. 44, 45, 46. 53.	
§ 2.			Perpetual.	Replaces 15 & 16 Vict. c. 83. § 17.			
§ 3.			Perpetual.	Replaces 15 & 16 Vict. c. 83. §§ 44. 47.			
§ 4.			Retrospective.	Replaces 15 & 16 Vict. c. 83. § 53.			
§ 5.			Prospective.	Replaces 15 & 16 Vict. c. 83. § 45.			
§ 6.			Retrospective.	Adopts all the stamp laws applicable.			
§ 7.			Retrospective.				
§ 8.			The occasion, and retrospective.	Executes 15 & 16 Vict. c. 83. § 32., as to existing specifications.			
§ 9.			Perpetual.	New name for letters patent under 15 & 16 Vict. c. 83. § 32.			
§ 10.			Perpetual.	Combines 15 & 16 Vict. c. 83. and this Act.			
Schedule.			Perpetual.	Replaces schedule in 15 & 16 Vict. c. 83. as to fees.			
,, c. 6.	§ 1	Supply.	The year.				
,, c. 7.	§ 1	Valuation (Ireland).	Perpetual.	Replaces part of 15 & 16 Vict. c. 63. § 39.		Part of 15 & 16 Vict. c. 63. § 29.	
,, c. 8.	§ 1	Inland Revenue.	Perpetual.				
,, c. 9.	§§ 104	Mutiny Act, Army.	One year.				
,, c. 10.	§§ 92	Mutiny Act, Marines.	One year.				
,, c. 11.	§§ 2	Annual Inclosure Act, 1853.	Occasion; with perpetual effect.	Supplements 8 & 9 Vict. c. 118. §§ 3. 27. 32. 94.			
,, c. 12.	§§ 8	Consolidated Fund.	The year 1853.				
,, c. 13.	§§ 3	Grand Jury Cess (Ireland).					
,, c. 14.	§§ 7	Annual Indemnity (First Act).		Relieves from Disabilities and Penalties under— 1 G. 1. Stat. 2. c. 16. §§ 7, 8, &c. 13 Car. 2. Stat. 2. §§ 7. 12. 25 Car. 2. c. 2. §§ 4, 5. 30 Car. 2. Stat. 2. c. 6. 8 G. 1. c. 6. § 1. 9 G. 2. c. 26. §§ 3, 4, 5. 18 G. 2. c. 20. § 3. and 1, 2. 6 G. 3. c. 53. § 1. 9 G. 4. c. 17. §§ 4, 5. 10 G. 4. c. 7. §§ 21 and 10. 14. 19. 20.			
§ 1.			Till 25th March 1854				
§ 2.			Till 25th March 1854				
§ 3.			Retrospective.				
§ 4.			Till 25th March 1854				
§ 5.			Till 25th March 1854				
§ 6.			Retrospective.				
§ 7.			Till 25th March 1854				
,, c. 15.	§§ 3	County Elections.					
§ 1.			Perpetual.			Part of 2 & 3 W. 4. c. 45. § 62.	
§ 2.			Perpetual.	Replaces part of 2 & 3 W. 4. c. 45. § 62. and of § 65.		Part of 2 & 3 W. 4. c. 45. § 65.	
§ 3.			Perpetual.	Confirms and amends 2 & 3 W. 4. c. 45. § 7.			
,, c. 16.	§§ 17						
,, c. 17.	§§ 19	Slave Trade.	Concurrent with a treaty.				
,, c. 18.	§§ 14	Land Revenues.	The occasion.				
,, c. 19.	§§ 3	New Forest Deer.					
§ 1.			The occasion.	14 & 15 Vict. c. 76. § 17.		Part of 14 & 15 Vict. c. 76. § 17.	
§ 2.			The occasion.	14 & 15 Vict. c. 76. §§ 19, 20, 21.			
§ 3.			The occasion, till 1st October 1854.	Extends 14 & 15 Vict. c. 76. § 25.			
,, c. 20.	§§ 6	Evidence (Scotland).					
§ 1.			Executed by Act.			15 & 16 Vict. c. 27. § 2.	
§ 2.			Executed by Act.			15 & 16 Vict. c. 27. part of § 1.	
§ 3–6.			Perpetual.	15 & 16 Vict. § 1.			

The current Session, the 16 Vict.—*continued.*

Statute.	§§	Subject.	Duration.	Amends;	is amended by.	Repeals;	is repealed by.
16 Vict. c. 21.	§§ 2	Clergy Reserves (Canada).					
1.			Perpetual.	3 & 4 Vict. c. 78.		Enables Colonial Legislature to vary or repeal 3 & 4 Vict. c. 78.	
§ 2.			The lives or incumbency of the parties.	Confirms previous dispositions.			
„ c. 22.	§§	Examiner of Court of Chancery.					
§ 1.			Perpetual.	50 G. 3. c. clxiv. § 9.		Supersedes part of 50 G. 3. c. clxiv. § 9.	
§ 2.			Perpetual.	50 G. 3. c. clxiv. § 8. and saves part of 15 & 16 Vict. c. 86. (§ ?).			
§ 3.			Perpetual.	15 & 16 Vict. c. 86. § 65.			
„ c. 23.	§§ 42	Redemption of South Sea Annuities.					
§§ 1, 5, 9, &c.			The occasion.			Supersedes 12 G. 1. c. 2. 6 G. 2. c. 28. 24 G. 2. c. 2.	
§ 41.			Perpetual.	Extends the law of forgery.			
„ c. 24.	§§ 12	Board of Health.	Perpetual.	Complements 11 & 12 Vict. c. 63.			
„ c. 25.	7	Local Supply.	The year.				

1st June 1853.

GEORGE COODE.

II.—ON THE DIGESTION OF THE MATERIALS FOR LEGISLATION AND CONSOLIDATION.

on their Analysis;
on their Recomposition;
on their Expression;
With two Appendixes;
—the first, being SUGGESTIONS as to the PREPARATION of COMPILATIONS of the EXISTING LAW, to precede or accompany BILLS in PARLIAMENT;
—the second, exemplifying the operation of Digesting, being a DIGEST of the ACTS for the RELIEF of the POOR.

Occasional character of English legislation.

(48.) The practical tendencies of English legislation, the invincible habit of providing law only for the occasion, and only so much of it as the present occasion immediately requires, is often urged as a matter of imputation upon us. Perhaps the juster view is, that it has been the means of forming, step by step, and with the constant test of practical experience, the most various, flexible, adaptable, and beneficial system of laws that has ever been developed in the world.

Nor is our law, in any respect, wanting in so much even of real inherent systematic connexion of its subject matter as is compatible with the realization of minute and various and all-comprehensive utilities.

It is true that it is almost singularly deficient in speculative provisions for abstract possibilities, and in logical extensions of its provisions to their logical consequences and extremities, and it follows that it wants the logical completeness which alone satisfies an educated, reflecting, and speculative reader, and the theoretic or professorial jurist.

Its apparent systematic defects are still apparent only, superficial not substantial; but it must be admitted that this appearance is, in a very high degree, disadvantageous to it. It is exaggerated too by almost every practice that negligence and, we may almost say, perversity can provide for the production, multiplication, and perpetuation of detailed confusion and disorder.

Still, blind and perverse as the practice may be, its formal defects have never interfered with the essential progress of our law to material completeness, substantial coherence, and practical consistency.

Over-completeness of the matter of the English law.

(49.) Whoever will collect the dispersed fragments of English law upon any subject will find it, by comparison with any other system of law, and above all by comparison with the interests and circumstances to which it has been in succession and is now adjusted, complete to superabundance. He will find no division, no head, to which the most systematic analysis or the most methodical synthesis would conduct him, unfurnished with appropriate matter. His chief difficulty,—often his only difficulty,—will be that the matter has been allowed to accumulate to excess by needless repetitions of nearly identical provisions, by nearly undistinguishable substitutions and alternatives, and above all by the enormous multiplication of provisions which have no longer a present utility or a possible application or illustration. His embarrassment will be with the superfluities, not with the deficiencies or inconsistencies of his subject matter; and it will be aggravated by multitudes of positive incongruities in form and expression.

Process for ARRANGEMENT and REDUCTION and AMENDMENT of the matter.

(50.) In such circumstances, for the realization of all the uses of so immense an opulence, two things are chiefly necessary,—the first, to put all the matter into order; —the second, after a just comparison of their respective utilities, to remove what is superfluous. The first of these processes may be designated as DIGESTION, the subject of this paper; the second as CONSOLIDATION, the subject of the next following paper.

No doubt, when the whole is cleared of its superfluities, the necessity, or at least the reasonableness and advantage, of many improvements in what remains will become evident; and the task of improvement, practical or systematic, will be made easy by the diminution of the quantity of the material in which it is to take effect. This subject of incidental and occasional AMENDMENT is likewise the subject of the next paper, but more particularly of the fourth, or last of the present papers.

ARRANGEMENT;

(51.) The first thing to be done is to put the whole of the matter as it exists into such an order, that all similar objects may be brought into juxta-position, for comparison, and selection or rejection; and it is not enough that every object of the same species be merely brought together, as, for instance, under their names in an alphabetical catalogue; it is indispensable for the success of the operation, that every matter be judged of, not only by its relation to matters of an identical or of a similar kind, but by its due relation also to matters the most remote in their resemblance and connexion, if they be connected at all; for, after specific practical utility, rational self-consistency is of higher value in law than most other things.

—must be minute, comprehensive, exhaustive, and systematic;—

(52.) The completeness, the over-completeness of details, and the necessity of comparing not only the objects themselves and their analogues, but also their most remote connexions, all necessitate the same result,—that the order in which the objects shall be arranged shall be both minute and comprehensive; shall, in short, be exhaustive as to the matter and systematic as to its arrangement,—that it shall be natural, displaying things in immediate connexion with those with which they have predominating and most numerous relations, and in their due connexion, close or distant, with all.

—peculiar applicability;—

(53.) The law admits of this systematic and natural arrangement in a higher degree than almost any other subject; and the arrangement applicable to the whole body is invariably applicable, with the same happy effect, to every fragment, however minute, into which it can by design or accident be subdivided.

It does not follow that the arrangement of any branch or portion of the law, to be perfect, requires as its condition the arrangement of the whole or even of any of the more considerable parts. The arrangement of any connected part may on very simple principles be made perfect within itself; but the nature of the law is such that no principle of arrangement but one is satisfactory, either as to the entire body or as to any of its several portions.

—principle of arrangement;—

(54.) The present purpose is to define the limits within which the whole of the matter is included, and the principles upon which the whole of its parts, whether presented in connexion or in fragments, must be displayed.

The discussion will in some part be necessarily abstract in a degree not required in any other part of these papers; but this discussion is absolutely requisite for the attainment of final agreement in the practical execution by many hands of the digestion or consolidation of many fragmentary portions of the law.

—extreme extent or limits of the whole subject; Elements of all law,—INTEREST and FORCE.

(55.) In ALL LAWS are but two elements, INTEREST and FORCE. Nothing is law, so far as it contains any other matter. No matter, no article, however minute, unless it contains, at least implicitly, both of these interfused, is law. For Interest and Force are not only the elements of the law, but its indissoluble elements in every case. It is the combination and complication of these two elements that essentially constitute the complexity of the law; and we have in them the whole matter, from first to last, that can properly or possibly come into view in any operation of the law, or upon the enunciation of the law.

First element,—INTEREST.

(56.) Of these elements, Interest and Force, Interest is the first, for the sake of which alone Force is resorted to, is aggregated and combined in the common or Public Force; and this Public Force is wholly governed and directed by reference to the Interests it protects.

Therefore, the understanding of the Interest in any question, in any discussion, is a necessary preliminary to the understanding of the application of the Force. To consider of an application of Public Force before the Interest that it is to protect, is to treat of the instrument before its object, and inevitably to misunderstand its use and operation.

(57.) An Interest protected by the common force is a Right. RIGHT;—

If the Interest, the simple element, and Right, the compound, (interest + common force,) come into view or into discussion, it is an absurd arrangement to place them in any other order than, Interest first, Right next.

(58.) No Right but must consist of at least these two elements, and of them only. to follow the arrangement of INTEREST;

Rights have this in common, that all are secured by one undistinguishable Public Force. But every different Right differs by virtue of the difference of the Interest involved in it, and protected by the same undistinguishable Public Force.

The characteristic and defining element of the Right, then, is the Interest, and the natural, the logical, the systematic definition and arrangement of Rights result from, and are identical with, the definition and arrangement of Interests.

(59.) The first and simplest of these Interests, and consequently of these Rights, are,— —viz.: ABSOLUTE; —*physical*;

Those in the Body or substance of the corporal person, its integrity, and development, i.e.— —intrinsic;

integrity of the person,
health of the person.

The next are in the uses or functions of this person,—

of the limbs and members,
of the several senses,
of the intelligence,
and organs of active relation.

Next, again, in complexity, are the Interests and Rights of the simple individual in external objects of enjoyment,— —extrinsic;

in place or locomotion,
in consumable objects (moveable possessions),
or in the permanent means to some of these (immoveable possessions).

And next, again, in complexity, are the Moral Interests and Rights of the individual in all the before-named things,— —*moral.*

his estimation of himself,
his estimation by others in respect of them (reputation),
his reflected enjoyment or sympathy (interests of benevolence to men and other sentient objects),
his enjoyment of his opinions.

Such, in the main, are the interests which each individual man may have and enjoy in himself, and which enjoyment the Public Force may protect, and so convert into ABSOLUTE PRIVATE RIGHTS.

But many of these enjoyments of private interests are capable of participation, of communication, and these may become the subjects of mutual and reciprocal private Relations of men :— RELATIVE.

One man may take or procure the body and its functions of another ;
slavery,—(master and slave) ;
servitude,—(master and servant) ;
or he may participate in the custody, use, and development of the bôdy, and the intelligence and the morals and the possessions of the person ;
tutelage (of infants, imbeciles, ebrious, profligates, insane) ;

or he may commute the functions of his body or mind for limited purposes;

agency;

or he may communicate external objects;

gift;

loan, and the varieties of bailment;

sale (and its results—credit, debt, insolvency, bankruptcy, &c.);

or he may communicate and participate personal agency, property, and the results of both in profit and loss;

partnership;

or he may participate and communicate his person and property in more intimate relations;

concubitus,

marriage,

and their results,

family,

parentage.

Such are the Communications of interests, the enjoyments of which being secured by the Public Force constitute the class of RELATIVE PRIVATE RIGHTS.

Combined ABSOLUTE and RELATIVE.

Finally, the total sum of all these interests, incommunicable and communicable, absolute and relative, is

life;

which, while it continues, involves the existence or potentiality of all these, and ceasing, involves the cessation of the operation of all these Interests and Rights in the individual.

Order—*simple* before *complex*.

It will be manifest to all who carefully consider the matter, that, when any two of these subjects are under consideration, the consideration of the simpler precedes the consideration of its compounds, complicated necessarily by additional elements.

OBLIGATION, a dependent correlative of RIGHT;

(60.) RIGHTS being INTERESTS, THE ENJOYMENT OF WHICH IS SECURED BY THE COMMON FORCE, involve by the terms, besides the Enjoyment of the Interest, the element of its SECURITY BY THE COMMON FORCE. The operation of this Force in maintaining this security of any right from invasion by others, constitutes the OBLIGATION CORRELATIVE TO THE RIGHT.

Obligation, Duty, are inflictions of the common force, restraint on enjoyment and liberty, which, but for the sake of the more than countervailing enjoyment of the right, it would be a gratuitous tyranny to impose on any men. The ground for the justification of the imposition of any and every Obligation, is the security of the Right to which it is correlated. A stringent and extensive Obligation is justified, and only justified, by the necessity of securing at least a more than equally important Right. Correlative as right and obligation are, Right is the principal, predominant, the primal and determining term of the relation. It is Obligation which is the subservient ancillary consequential term of the relation.

and must follow in order.

Consequently, whenever a Right and its correlative Obligation are under treatment the Right must precede, as the determining relation; the Obligation follow, as the resulting relation.*

* It is common in legislation to be silent as to the Interest and as to the Right, as being known, approved, and spontaneously recognized by the selfishness of all men, and to confine its expression to the necessary Obligation and its enforcement, as being more artificial things which men do not naturally know, are reluctant to admit as against themselves, and prone to evade or resist; and so legislation being but one part of the process of the application of public force is naturally more occupied in expressing obligations which it can create than in expressing interests and their enjoyment, which it cannot. It follows, that the more manifest exhibitions of legislative power are made in express reference to obligations, and not to the rights which those obligations subserve.

From a similar reason, that while rights are enjoyed in security, there is no occasion for the active intervention of judicial or other administration, and that it is only when rights are invaded or in

It follows, from this inextricable correlation of Obligation with Right, that the analysis of Right is ipso facto the analysis of the distinctive elements of the corresponding Obligation; that the order of complication and successive arrangement of rights is the necessary order of arrangement of their corresponding obligations, and, therefore, that what is determined as the natural and logical arrangement of Rights is, ipso facto, the natural and logical arrangement of Obligations, and that any departure from exact parallelism in their treatment is confusion.

(61.) The invasion of right, the evasion of obligation, is a WRONG. It is defined implicitly, as an opposite, in the definition of the Right and of the Obligation. It is simply the act opposed to the act prescribed in the terms of the Obligation. As its definition, so its proper arrangement is correspondent, and absolutely parallel,—as opposites are to opposites,—with right and with obligation.

WRONG has a correlative definition and parallel arrangement with RIGHT and OBLIGATION;—

But the wrong corresponding to each several right or obligation is subject to these distinctions.

The wrong, as such, is the act of the obliged person opposed to his obligation.

—its modes;

This opposition differs in its modes of opposition from the mere negative, non-recognition, passive nonperformance, up to active invasion of the right, and defiance of the force that secures it; and it is the natural and logical course to describe and arrange the modes of each breach in this order.

—its stages;

And as to each of these modes of opposition there are stages in the execution of the wrong,—

imagination or conception;
intention;
preparation, (including pretentation, incitement of others, solicitation, subornation, &c.).
attempt;
commission.

—its communication;

Each of these admits of participation (accessories, accomplices, &c.).

—and their arrangement—*cumulando.*

The one and obvious arrangement of any two or more particulars under these heads is, to place, first, the wrong according to the mode of its opposition to the duty; next, as to its execution according to the stages advancing to complete commission; lastly, to treat of communication, participation, and accession in the like order.

INTERVENTIONS of FORCE.

(62.) Having disposed of any matter in hand relating to the Interest, the Right, the Obligation, the Wrong, we come to the Intervention of the Force appointed to protect that interest, to maintain that right, to enforce that obligation, to restrain that wrong.

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danger of invasion that these administrations have occasion to operate in prevention, restraint, and compulsion against the aggressor, and in enforcement of his obligation, it follows also that administrative action is more grossly manifest in its ancillary and occasional and visible operation of enforcing obligations than in its primal and ultimate and guiding and universal and pervading but unobtruded operation of securing rights.

Hence lawyers, and legal writers, and judges, concerned more in the immediate applications than in the ultimate purposes of the law, are especially apt to see nothing in the Law but Obligation, but its infliction upon one class of men, and to omit from their expositions and treatises all direct reference, or at least all adequate recognition of its useful, beneficent, and prime object,—the creation and maintenance of Rights. And many philosophers, without the technical excuse of the practical lawyer or administrator, take the same one-eyed blinking view of the subject.

This Force sleeps, has no active use, except in contemplation of a right in danger, or of a wrong in prospect, in course of commission or committed. It then intervenes in one of the following modes:

the Ministrative, by which it intervenes to provide the object of the right;

the Mandative, by which it intervenes to compel the allowance of the enjoyment of the right;

the Injunctive *, by which it intervenes to restrain an aggression on a right;

the Compulsive, by which it intervenes to compel performance of the obligation;

the Preventive, by which it intervenes to prevent the wrong;

the Interdictory, by which it restrains a wrong intended or in commission;

the Nullative, by which it destroys the purposed effects of a wrong;

the Restitutive, } by which, after wrong, it replaces the subject of the right in its
the Remedial, } enjoyment, as before the wrong;

the Compensative, by which after wrong it compels the wrongdoer to pay an equivalent for the right disturbed;

the Penal, by which it punishes him for the wrong done.

—order; *simple to complex;*

As to all these, it is clear that the earlier implies the simpler state of things, the later a more complicate. The Ministrative Intervention implies only the recognition of the right, and not the correlative obligation, nor its breach, the wrong. The Mandative, Injunctive, and Compulsive contemplate the right, and the obligation which they enforce, but not the wrong. The Preventive contemplates all three; but the wrong as not in effect, nor to be allowed to be effected. The Interdictory all three, but the wrong inchoate or in process of commission. The Nullative all three, but the wrong commenced, and tending to its effects. The Restitutive or Remedial all three, but the wrong effected, and involves the simplest process of redress, the restoration to the enjoyment of the right. The Compensatory the same elements, and the more complicate process of estimating the value of the enjoyment disturbed in some other equivalent of service, money or the like. The Penal implies all the elements of right, of obligation, and of wrong committed, but with further resulting effects of the latter upon the community, and is the last resource when all the other modes of Intervention fail.†

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* This is not completely the sense in which the word 'injunctive' is used in English Law, which includes more particularly the operation expressed here by the 'interdictory intervention.'

† The most factitious and artificial, and therefore the most fluctuating of all the modes of intervention of the public force, the application of which is almost capricious, now relaxed, now constringed, now enacted, now abrogated, and is commonly only the last desperate resource in destitution of more appropriate appliances, is nevertheless often used, since the dark ages, in defiance of all principles of language or reasoning, as a distinction for a main division of the law—"the Penal Law;" or because the affixation of a certain amount of penalty to a wrong, is, by a strange doctrine, said to convert that wrong into a 'crime,' and the wrongdoer into a 'criminal'—"the Criminal Law." These terms and this practice assume that a body of law involving Rights and Obligations as its first and main and indispensable elements, and the objects of all other wrongs, as well as those few wrongs which are accidentally punishable, can be properly characterized by this contingency, this accident, of penality.

To make this arbitrary and accidental penality the criterion of a division or arrangement of a body of law, is to make that division itself, and the connexion of all its contents arbitrary and accidental. It involves the exclusion of all the truly related members of that body that do not participate in this arbitrary accident. It includes in the division but accidental fragments of the matter really related. It drags into unnatural and arbitrary connexion things in their essentials the most heterogeneous. It necessarily makes all generality of expression either impossible or too abstract; every general truth being more applicable to a greater portion of matter excluded from this division than to the whole matter included; and therefore, though true, objectionable for too great generality in its application.

I had the honour to advise the Criminal Law Commission in 1834 of the impracticability of their undertaking to codify the Criminal Law, and stated my reasons to three of them personally, and in a tract printed for that particular occasion.

The inevitable results of their perseverance in an attempt as much opposed to all material considerations as to sound logic, are seen in a waste of twenty years of labour, an useless expenditure of 50,000*l.*, and in a disappointment of public expectation quite as much to be lamented.

(63.) Consequent upon the mode in which the public force intervenes in securing a right, enforcing an obligation, or restraining a wrong, is the mode in which that intervention can be invoked. Before a wrong is committed, it is impossible to call for amendment, remedy, compensation, or penalty. After commission it is equally impossible to apply the ministrative or preventive intervention. INVOCATION of FORCE;

Modes of Invocation depend, then, upon the modes of Intervention.

Assertions, Affirmations, and Confirmations of Right simply, are rare;—
petitions or bills of inquisition.

As to the ministerial and preventive interventions, the special mode of Invocation is merely,—
requisition,
petition.

Invocations of the corrective interventions, in respect of a wrong inchoate, in commission, or committed, are—
petition,
plaint,
presentment,
action,
information,
indictment,
impeachment, &c. &c.

These all attend in their order on the arrangement appropriate to the right claimed, the obligation to be enforced, the wrong to be prevented, restrained, remedied, or punished. As so of ——

(64.)—Excusals, exceptions, defences, which necessarily follow in nature and order the nature and order of the related right, obligation, or wrong, and the resulting modes of Intervention and Invocation, and are to be described in the parallel order; and so of— Contestation.
the Allegations on the one side and the other, (Pleading),
and the Proofs offered to maintain them, (Evidence).

(65.) The Processes for the regulation of these and their incidents, for determining the results, and for carrying them into execution, Procedure.
judicature,
procedure,
depend for their classification upon the mode of invocation to which they apply, and for their detailed arrangement upon the order of the succession in time of their incidents. Arrangement.

(66.) Thus far the element, Interest has been traced through all its stages of complication in rights, obligations, wrongs, interventions, and incidental procedure—constituting in the aggregate of all their considerations, from the point of view in which INTEREST is the leading element and Force the attendant element, the entire subject of PRIVATE LAW. PRIVATE LAW.

(67.) Next succeed the considerations in which THE FORCE is the leading element. FORCE,—its administration.

These considerations, from the point of view in which THE COMMON FORCE is viewed as the first or immediate object, and the Interests the enjoyment of which it protects, as the remote object, constitute collectively the doctrine of PUBLIC LAW. PUBLIC LAW.

(68.) THE FORCE of individual men, uncombined is ANARCHY. ANARCHY;

(69.) THE FORCE of individuals in a community combined for the security of THE INTERESTS of its members, and preponderant over all opposing force is POLITY. POLITY.

ALLEGIANCE; (70.) This Combination of the Members and preponderance of the Common Force is ALLEGIANCE.

SOVEREIGNTY; (71.) —this preponderance being SOVEREIGNTY.

SUBJECTION; (72.) —and the subaction of each member being SUBJECTION;—
—members—
—population—
—territory;

SERVICES;— (73.) The Force of the Members so exerted for the Community is SERVICE;

—in kind; (74.) —and as FORCE exerted = labour;—
and as labour productive of enjoyment = value = wealth;—
so wealth contributed to the Community is = Service contributed.

—or commuted = TAXATION. Thus, SERVICES of Subjects commuted into money, &c. takes the shape of TAXES.

PUBLIC ADMINISTRATION; viz.,— (75.) PUBLIC ADMINISTRATION* of the common force consists of Contribution and Distribution.

—Contribution;— (76.) Contribution of the Force, i.e. of Services, or their equivalent Taxes, includes
the imposition
the assessment
the levy
the lodgment, deposit, or custody (PUBLIC PROPERTY).

—Distribution; viz., (77.) Distribution of the Force is either,—

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* It may at first sight appear objectionable that no place is made in this analysis for such a title as Offices, Dignities, Honours, &c. But an Office is nothing but the charge of some function of the common force; and the Officer is nothing but the person who may happen to be so charged. For every function there is an Officer: but it by no means follows that the enumeration of officers is the enumeration of functions,—for it is common to split up homogeneous functions most arbitrarily, and to make officers for each fragment,—to accumulate incongruous functions just as arbitrarily, and heap them on one officer that happens to be in the way,—to allow essential functions to become obsolete, and yet retain the office for its remuneration or the dignity, when its use has ceased. In England this disorderly state of public charges is more conspicuous than in any other community, even the most barbarous, and yet the subject of the distribution of public functions has never been comprehensively or systematically examined, except by Mr. A. Symonds in his recent work on the Organization of the Civil Service (printed, unfortunately, only for private circulation), and it defies, in this its present state, all orderly treatment except that given in the text, which is after all the only logical one too.

But each Office and its Officer, however incongruous or defective its constitution, comes to be treated of, as each function is treated of—and thus it is to be displayed in respect of,—

Office, Public Charge = Special deposit of a function of the Public Force;
= Special Power of each Officer;
= Special Duties of each Officer;
= Constitution of each Office.

and these divide themselves by these steps,
—competence, (jurisdiction, cognizance).
—investiture,—Tenure,—Devestiture
—execution (Duty)—inquisition—deliberation—resolution—special act of office—recordation (ordinary, periodical, occasional)—account (ordinary, periodical, occasional).
—responsibilities
—remuneration

When an Office is continued in Name, in Dignity, in Remuneration, but not in Execution or Responsibility, it becomes a Sinecure;—

When retained in name and dignity only, it becomes a Titular Honour.

As to all these, when the function is split up amongst many offices, many offices will be referred to in the digest in relation to one function;—when incongruous functions are heaped on one office, that one office will be so many times referred to in relation to different functions.

(78.) —the Ministrative, in which it intervenes to provide the enjoyment of Interest or Right (62) as,— —the Ministrative;—

by succour in dearth;
by maintenance of Poor (Poor Laws);
by the means of health (exercising grounds, parks, &c., sewers, and ædilitial arrangements);
by the means of locomotion (Roads, Navigations, Harbours, &c.);
by the means of communication (Postage, &c.);
by the means of mental and moral culture, as,—
museums
libraries
exhibitions
spectacles
schools
worship.

(79.) —the Preventive, in which it intervenes to prevent an aggression on the enjoyment of the Interest or Right, and includes,— —the Preventive;—

the mandative intervention (62);
the injunctive;
the compulsive,
the preventive,
the interdictory, (Ward, Preventive police, Military police, Judiciary).

(80.) —the Corrective, by which it intervenes to correct an aggression on the enjoyment of the Interest or Right, and includes, —the Corrective;—

the nullative intervention (62),
the restitutive
the remedial
the compensative
the punitive

—of which the administrative instruments are,
—in Private Law (57–67)—the Judiciary; the Corrective Police
—in Public Law (67–84)—Ministerial Control; the Judiciary.

(81.) These functions of force applied to the interests of subjects

within the territory (72) is Home Government,— Home Government;—

within the dependencies of the community is Colonial Government,— Colonial;

externally is Foreign Relations, and these are either,— —Foreign relations, viz.,

Amicable, in Diplomacy —diplomatic;

Conventional, in Treaties —war.

or Inimical in War (Military Law, Army, Navy, &c., Usages of War).

(82.) The authorization of these applications of the Common Force is either Authorization of Force

by accretion.

—by Usage and deductive reason (Common Law, Custom). by Common Law;

—its evidences.

or by imposition by Legislation.

—by adrogation (Legislation by deliberative bodies; Acts of Parliament, &c.)

—by dictation (Legislation by autocratic edict, &c.)

—its expression.

(83.) The administration of all these functions of Force in the last resort, beyond control or appeal, is SUPREME GOVERNMENT. Supreme Government.

(84.) And this—remaining in the hands of the members of the community undistinguishably is Democracy. Polyarchy; Monarchy.

—deposited in the hands of more than one member, and of less than all, is called by such names as Aristocracy, Oligarchy, &c.

—deposited in the hands of one is, Monarchy;
and this is
pure, or Despotism,
or mixed or limited, as THE BRITISH MONARCHY.

COMMON TO PRIVATE and PUBLIC LAW are —INTERPRETATION; —CONSTRUCTION.

(85.) Considerations common to both PRIVATE (55–66) and PUBLIC LAW (67–87) are,
THE INTERPRETATION of Popular and rational Law
—JURISPRUDENCE.
the EVOLUTION of the effect of verbal disposition, legal or legislative.
—LEGAL CONSTRUCTION.

Order of elements;—

(86.) Such are the elements and such is the order required by the successive addition of elements and the increasing complexity of the objects. To alter this order in any instance is to make the complex to precede the simple, and not only to confuse the just order, but to embarrass the understanding by placing that which is composite and difficult before that which is simple in its nature and easy to understand.

—applicable to fragments;

(87.) It is rarely that any one single subject would present materials for arrangement under every head in every stage from the first—Interest—to the last Interpretation.

But undoubtedly every complete subject must present itself in many of these details, and as many as there are will be presented successfully and intelligibly only in such an order as they occupy by virtue of their respective complexity, and whatever they are, however partial and fragmentary they be, the proper place and order of each are the same as they would occupy if they were parts of an unbroken succession.

The benefit to be derived from observing the same order in the arrangement of the details, whether those details be few or many, is chiefly the improved clearness and intelligibility resulting in each instance. But another great advantage is, that every partial subject so treated would correspond article by article with the treatment of any more comprehensive subject, the corresponding and parallel members would always inosculate, and would be ready to coalesce article by article in the arrangement of any more comprehensive subject, whenever occasion arose to connect, combine, or consolidate them.

practical applications;—
for determining the unity and connexion of the subject matter.

(88.) The first step in the process of Digestion or Consolidation is always that of ascertaining whether the subject-matter is single or multiple; so that if it be not single it must be treated under different and separate heads.

Whatever be the matter in hand requiring arrangement, the first thing is to ascertain whether it consists of one or more subjects.

Whatever relates to some one Interest, or some one class of Interests, and to the whole of it, is in the broadest and most natural grounds one subject.

Whatever relates to one Right, or one class of rights, and to the whole of it, or to the whole of the persons entitled to the enjoyment, or invested with the right, is, upon the next most broad and natural ground, one subject.

Whatever relates to one Obligation or species of obligation is, upon the next most general ground, one subject, but the unity is artificial.

Whatever relates to some one mode of Wrong, or stage of wrong, is lessbroadly and still simply one subject.

And whatever is connected with any one single subject ranged under any of the subsequent divisions in the foregoing analysis, is at every successive stage more and more artificially, contingently, and accidentally one subject. Still, whatever the criterion by which the matter is connected and made one subject, all the matters connected with it

will follow, as many of them as there are, the order of succession in the order of the arrangement described above, and the analogous parts of each will occupy analogous places.

Division of matter;

(89.) The foregoing analysis shows the elements into which any legal matter whatsoever must be divided; and when any heterogeneous mass of matter is placed in the digestor's hand, he will proceed by separating the subjects until he finds each part connected by agreement in some one of the criteria indicated.

and its recomposition.

The matter so agreeing is one subject, and all that is connected with this one subject has to be recomposed and placed in the order of the parts suggested by the analysis (55–88).

Tendency of systematic digestion to uniformity in expression;

—to brevity, by suppressing repetition;

by extirpations of groundless differences;

—and to safe generalizations.

(90.) Whatever the number of subjects to be dealt with, if this same method be observed it will be found, that though at many stages they may differ and require their distinctions to be displayed, in other stages they will be identical, and will coalesce under one expression.

A comparison of analogous matters in analogous places will constantly suggest the inquiry, why they differ, if they differ at all, and will constantly suggest the destruction of the difference, the assimilation and identification of the provisions, by extending to all the best characteristics of each; nothing would more certainly produce a safe and rapid analogizing of the law in all cases where differences are indefensible than the striking display of capricious and accidental differences which would be effected by the adoption universally for all its parts of one natural system of arrangement.

The practical reasons for the preparation of digests of all the law upon any extensive subject previously to fresh legislation apply, à fortiori, to any such large and comprehensive operation as the Consolidation of the law under which operation large changes might be effected, unchecked, perhaps without intention, by the consolidator, but certainly without sufficient warning to the legislature and the community.

For the other practical reasons why such digests should be prepared, it may be sufficient to refer to the first Appendix to this paper.

Expression.

(91.) The principles governing the composition of legislative sentences have been already expounded as well as I could hope to expound them here in a paper prefixed to the Report of the Poor Law Commissioners upon Local Taxation, reprinted in a small pamphlet under the title of *Legislative Expression*. These principles have been extensively adopted, especially in some Government departments, and with eminent success in various bills prepared in the office of the Board of Trade.

Digest of Poor Laws, Appendix II.

(92.) Exemplifying the above remarks upon the process of digestion, a Digest of the Acts for the Relief of the Poor will form a second Appendix to this paper. The subject was selected, not because it is calculated to exhibit a good specimen of the process, but because of the practical uses of such a digest to those who have to administer the Poor Laws. The subject is entirely an artificial one, in which none of the leading considerations of private rights, of private obligations, make their appearance. It is subject to the still greater disadvantage of being encumbered with an unexampled mass of conflicting and inoperative matter. Still it does exhibit an application of the order of arrangements and of the mode of expression here recommended, and with great advantage to the simplicity, lucidity, and accessibility of all the related matter.*

* As this Digest† will not be circulated till some time after the publication of these papers, it may be well to show the general order of its matter, which exemplifies in all respects, so far as it extends, the order of the foregoing analysis (55–88).

† The Digest contains about 1400 articles. In reducing these to the systematic order and expression here recommended, I may be allowed to say that anomalous and absurd as a great part of the matter is, there was in no instance the least occasion for doubt or difficulty as to either the order of any article or its expression. In digesting, a few years ago, into 873 articles, the heterogeneous matter known as the Penal or Criminal Law, there was no more occasion of doubt or difficulty.

By the more minute connexion of the details of the Digest, only to be made intelligible by examination of the work itself, it will be seen that each useful provision condemns

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After defining the extended or arbitrary sense in which terms may be understood (DEFINITIONS), —the primary object and the result of this body of law, the PROVISION for the RELIEF of the POOR, is treated of under the heads,—

THE POOR
children
old
impotent
THE RELIEF OF THE POOR,
in kind
in money
by setting to work
in workhouses
in farm or contract houses
by putting to service,
or apprenticeship
by emigration
by burial
—the DUTY OF RELIEVING THE POOR *is* the CHARGE ON THE PROVIDERS, treated of under the head—
CHARGEABILITY ON 'PARISHES'
Incidence of charge
Protection from unlawful charge
Reimbursement of charge
by the pauper
by his relations
by his parish
by two or more of them
Transfer of charge
on the ground of settlement;—
Settlements
*—simply;—*or
—by warrant of removal;
who removable,
exceptions;
the making of the warrant
suspension of its execution
till notice, appeal, &c.
by justices for illness, &c.
abandonment of the warrant
execution of the warrant
appeal against the warrant
Submission of questions of charge, settlement, and removal to the Poor Law Board
for which charge PROVISION is made—
—regularly, by THE POOR'S RATE;
its incidence
assessment
levy
—and occasionally by CONTINGENT SUPPLIES, as—
loans
miscellaneous contingencies.

The ADMINISTRATION of the provision for the relief of the poor, is, I. LOCAL; that is, Ministration and Execution; or, II. GENERAL, that is, Supervision, Direction, Correction, and Control; as

I. LOCAL ADMINISTRATION
In 'PARISHES'
—by their OFFICERS,
Overseers
and others
The Board of Guardians
and their officers
In COMBINED PARISHES
In UNIONS
—by their OFFICERS,
The *Board of Guardians*
and *their officers*

the useless provision standing by its side. In some few instances it as clearly shows the want of provisions necessary to fill abrupt chasms in the subject, and in such cases the same order and connexion suggests the very nature of the provisions required.

(93.) Moreover, bulky as this Digest is, it has reduced the mass of extant matter to less than half that of the original. This is chiefly effected by giving operation to long repealing provisions, by the simple omission of the words or provisions repealed, by which long acts encumbering the statute book operate in the Digest as a simple subtraction from some part of the bulk of the original statutes. —reduction of bulk.

A similar effect attends the digesting of amendments by interpolating each amendment into the original matter amended. This has incalculably reduced the bulk as it has added to the intelligibility of the matter. Thus:—

in the 7 & 8 Vict. c. 101. s. 58, 409 words are digested with an increase of the matter by 4 words;
in 3 & 4 Will. 4. c. 63. s. 1., 894 words are digested in 25 words;
in 59 Geo. 3. c. 12. s. 22., a clause of 136 words is digested in one word;
in the 9 & 10 W. 3. c. 11., 578 words are digested in 9 words;
in the 59 Geo. 3. c. 85. s. 1., 252 words are expressed by one word;
in the same act an amendment in 134 words, merely excludes the word "and" from the original, and therefore reduces the digest by one word;
in the 50 G. 3. c. 49. s. 1., 436 words are digested in eighteen words;
in the 1 G. 3. c. 36., 390 words are digested in forty;
in the 13 & 14 Car. 2. c. 21., 105 words are expressed without the addition of one word, but by virtue of the general definition of the word "parish";
in the 21 Jac. 1. c. 12. s. 3., eighty-eight words are expressed in one word;
in the same Act, s. 5., 268 words are digested in twenty-two;
in the 43 G. 3. c. 10., 233 words are digested in three words;
in the 43 G. 3. c. 130. s. 1., 594 words effect in the Digest only the substitution of one word for another;

or, in the whole of these examples, 4,515 words have been reduced to 123, an average of 36 to 1.

The above are a few of the more extreme cases, selected rather to show the nature of the operation, than as a fair example of the proportion of all the reductions effected; but it is certainly a fair estimate that all amendments are transferred in their operative terms, verbatim et literatim, into the Digest, in much less than one-half of their original bulk, and generally, and on the average, in about a third of their original bulk.

August 1853. GEO. COODE.

In DISTRICTS, being aggregates of parishes and unions,
for SCHOOLS
—by their OFFICERS
for ASYLUMS
—by their officers
All these local officers are liable to account.
ACCOMPTABILITY
AUDIT

II. GENERAL ADMINISTRATION, that is, Supervision, Direction, Correction, and Control,
by the "POOR LAW COMMISSIONERS" expired
by the "POOR LAW BOARD"
—under the correction of THE JUDICIARY
—under the control of THE QUEEN
—and the supervision of PARLIAMENT

APPENDICES TO PAPER II.

First Appendix—On Digestion.

[P.S.—*These "Suggestions" were intended to be a part of the Appendix to the Report of the Poor Law Commissioners upon Local Taxation, but were not eventually published with it, being in their general purport but remotely connected with the immediate subject of that Report. It is to that Appendix, as published, that the references in the paper are made.*—G. C.]

SUGGESTIONS as to the Preparation of Compilations of the existing Law, to accompany Bills in Parliament.

How unbecoming must it appear in a Member of the Legislature to vote for a New Law who is utterly ignorant of the Old! What kind of interpretation can he give who is a stranger to the text on which he comments?—*Blackstone, Commentaries, Introd. Sect.* 1.

If Acts of Parliament were after the old fashion, penned, and by such only as perfectly knew what the common law was before the making of any Act of Parliament concerning that matter, as also how far forth former statutes had provided remedy for former mischiefs and defects, discovered by experience; then should very few questions in law arise, and the learned should not so often and so much perplex their heads to make atonement and peace, by construction of law, between insensible and disagreeing words, sentences, and provisos, as they now do.—*Sir Edward Coke, Second Rep. pref.*

Difficulties attending recent legislation;

There is no clear field of any considerable extent now left for fresh legislation. The most unimportant private and temporary Acts must displace or overlay, according to their extent of purpose and duration, a proportionate extent of the pre-existing positive law. The Public General Acts every year more and more occupy ground already occupied by positive legislation, their direct and immediate operation being almost always to abrogate a large extent, and to modify a still larger extent, of the previous written law. Their indirect and remote operations can rarely be defined or calculated without a course of actual experiment: but both the immediate and the remote effects even of the most simple enactments, are every day becoming more and more various, complicated, and uncertain, because of the greater abundance, variety, and complication of the pre-existing law, with which all more recent laws have to combine.

When the legislation of three or four centuries was contained in only as many volumes of moderate size, it required no great effort on the part of any member of either House of Parliament, to ascertain the whole of the law then in force on any subject whatever, upon which it might be proposed to legislate afresh. Every lawyer at least might then be reasonably considered as bound to know it; and, as a fact, the framers of statutes usually did possess competent knowledge of the pre-existing law; for whatever may be the respective merits of policy and contrivance, and general form of the modern statutes, as compared with those of more remote times, it is undeniable that the earlier the statutes the more complete is the intrinsic evidence they afford of the distinct acquaintance of the lawgivers with the law they had to deal with.

But now that every Session adds another volume to the 79 volumes of the statutes already extant, it would be obviously impossible, even if Parliament consisted exclusively of intelligent lawyers, zealously devoted to the work of legislation, that any persons other than the individual preparers of the measures could, by their own inquiries, inform themselves of the extent of the law to be abrogated, restricted, confirmed, interpreted, or modified by any one new law of any considerable importance,—still more by all the new laws of each session. What might be anticipated from this difficulty is unfortunately confirmed by every day's experience. Important modifications of the law are proposed and passed, regard being naturally had in most cases chiefly to the merits of the measure, considered independently, and in itself, as displayed within the terms of the Bill. What existing law it is to be associated with, cannot with existing arrangements be easily scrutinized. The Bill containing the new proposal, in a compendious form, and in the current Parliamentary language of the day, is printed and open to inspection of Parliament and the public. The existing law into which that new measure is to be incorporated, is not equally apparent and intelligible, and is sometimes practically inaccessible in the time allowed for the passing of the measure. There are, of course, some vague and partial impressions on the subject; such knowledge of the operation of the law as some persons may have acquired by their own personal experience as litigants, as magistrates, or even as practising lawyers. But knowledge so acquired can rarely be coincident with the entire body of the law affected by a new project, and from the adulteration of the judgment by their personal feelings, will beget narrow prepossessions or prejudices on the subject of the existing law at least as often as it will aid in the acquirement of a connected and comprehensive understanding of it. Unless such casual and partial knowledge as this can be considered sufficient, nobody can know enough, without special and extensive research, to be able to predicate the combined effect of the existing law, and of the new proposal; very few indeed are capable of making this necessary research, and still fewer are willing to avow their want of means or capacity for performing this essential part of the business of a lawmaker; but when any one is found sufficiently candid to admit his own ignorance, and to ask for information, he has still to take the information he seeks on trust from the oral and off-hand representations of the proposer of the Bill. The want of other means of information thus causes an amount of faith to be reposed in the individual proposer of a Bill, and in the draftsman, which the results do not often justify. It is thus that the fitness and policy only of a new measure is canvassed, as if it were merely an independent and isolated measure, and not a measure which may change, or abrogate, or disturb, a much larger quantity of law than is directly contained by itself; the majority of those who vote on it remaining in practical ignorance of the law to be operated on. The work of legislation is thus performed as no other work could be. However good and beautiful a design may be, it is necessary, in other arts than that of legislation, before it is attempted to put it into execution, to examine what place it is to occupy, what is to co-exist with it, and what it is to

—present manner of passing bills:

displace. In legislation the process seems to be like the building of a structure in the air on some favourite model, neglecting all deliberate care to clear the ground and prepare foundations, but letting it down wherever it may fall, to find a footing, and to jostle a place for itself as it may.

When a measure is thus passed, there follows next a conflict of the new and the old law; and then as one after another unexpected inconvenience make themselves severely felt, there ensues a piece-meal legislation of amending, declaratory and repealing Acts, often in a long series, founded on particular, and even sometimes on peculiar and exceptional, cases of hardship, and often betraying in their provisions the fact that even the single Act to be amended has not been known by Parliament; and each new Act, by the obscurity of its connexion with the rest, rendering the entire effect of the series more doubtful.

—effects on the judicature.

This process cannot go on with the statute law without deteriorating our judicature, and eventually bringing it to as low a standard as that of the legislation. Already the invaluable, almost the essential, rule of legal interpretation, that all parts of a statute, and all the statutes *in pari materiâ* are to be considered and construed together, has become, with the present vast succession of casual and disconnected statutes, a simple physical impossibility, to men occupied as the judges are. The complaints have consequently become general, that the courts of law now too often decide cases with regard merely to the grammatical effect of the terms of some particular and subordinate provision, abstaining from all attempts to collate and reconcile that provision with others indicative of a more general purpose, or of a different object or intention; that the modern decisions of the courts of law are thus as independent of one another, as incoherent and irreconcilable as the statute law itself; that the interpretations of the courts, instead of solving difficulties, constantly provoke as much new discussion, and require as much interpretation, as the statutes they affect to expound; and that the great object of our appellate and centralized system of judicature,—the consistency and conformity of decision, the conciliation and amalgamation of all parts of the law into one coherent body, is thus lost sight of. These complaints have their origin and cause, not in any new or peculiar incapacity of the judges of this day, who are certainly not less inclined to generalize, nor more technical, minute, precise, or special in their learning or habits of reasoning than judges formerly were, but in multifarious fragmentary and incoherent legislation, the endless accumulation of which renders it impossible for any judicature to afford time or attention to detect and trace in the mass of new law any clear relation of its own parts, or any determinate relation, whether of conformity or of opposition, to the old law, or any clue to a general object or prevailing intention. The courts, however, know well that the emission of a mere lexigraphical judgment as to what may be the verbal effect of the terms of a detached or isolated provision, is not even a lawyerlike interpretation, still less a judicial enunciation of the law. They often show a consciousness that decisions on such narrow grounds cannot be reconciled with any principles of law or any known or presumable intention of the legislature; that they rather frustrate the law than carry it out; that their judgment is unfairly hard upon the surprised and innocent suitor, or more inconvenient than could possibly have been intended by the makers of the law; and therefore the judges so often seek to relieve their feelings, and to exonerate themselves from the imputation of promulgating unreasonable and impolitic rules, by referring the party whom they recognize as suffering by the words, and not by the intention of the law, to Parliament as the authors of the evil, for a new Act. Whenever this is done by the judges, it is a tacit admission by them that the intention of the law on the whole, and their decision upon some part of it, seems to them to be irreconcilable. Parliament, however, on these recommendations by the judges, usually pass new laws for the prevention of future hardships, having the individual cases in their view, but still as much in the dark as before with regard to the bulk of the law they are operating upon. Statutes more and more special and exceptional in their character are thus promulged to come again into the courts of law,—additions to the amount of previous conflict; solving, if they do solve, one difficulty by making others; embroiling still more the confusion of the mass of the law in which they have been cast professedly with the purpose of making peace, and still forcing the judiciary on every succeeding occasion to follow more closely and timidly in the narrow, broken, and unconnected course of the legislature.

—and on the public.

It is impossible but that the professional expositors of the law must follow or anticipate the modes of interpretation adopted by the courts; and thus the laxity and incoherence of the statute law makes its way down to the population, amongst whom, if it retains an influence on their actions, it does so rather by a result of their habitual political submissiveness, than through any self-sufficiency of the modern law for its own vindication.

Instances of uninformed Legislation.

The memory of most persons at all conversant with the business of Parliament, or of the courts of law, will supply illustrations of all these evils, in relation to the subjects in which they have been interested; nevertheless, it may be permitted to point out some few of the instances in which Parliament has proceeded in ignorance of the existing law suggested by the matter contained in the following Appendices. In considering these instances, it is right that it should be borne in mind that there is no other subject upon which the existing legislation is in fact so certain, or upon which Parliament and the public generally are so accurately informed, and so intelligibly and directly interested, as the present subject of Taxation. In respect of most other rights conferred, and obligations imposed, by the legislature, a certain latitude of enjoyment and of obedience is inevitable, and much of the effect of the law may safely be made to depend on the general sense which people have of their reciprocity of interest,—every person subject to an obligation at one moment, being equally entitled in his turn to the enjoyment of the right conferred, and to benefit by the obligations imposed on others, for securing its enjoyment. In matters of taxation, the recognition of the burden of the obligation is always easy, but the perception of the reciprocal benefits to be enjoyed is less easy and less general. Precision of expression is universally felt to be necessary, when every man is to be compelled to make definite sacrifices, and submits to the law with reluctance. This precision of expression is also most easily attained, because the liabilities are dependent on simple circumstances, are not subject to be modified or rendered intricate by complicate private arrangements, and are measured by arithmetical (that is, by easily definable) proportions; the whole of the law is put into operation through the ministration of special functionaries, whose information, when new legislation is contemplated, is always officiously offered or readily to be procured. No subject could therefore be selected, of which the matter is in so defined a form as the present, or so clearly expressed, and so little likely to afford examples of ignorance in Parliament of the existing state of the law at the time when

they legislated. Nevertheless, even here the instances are sufficiently numerous and striking to illustrate the prevailing fashion of legislation.

The last Act passed in relation to Local Taxation, purporting to be a complete measure, is the 4 & 5 *Vict. c.* 45. Its main, almost its only apparent, purpose was to authorize the imposition of a tax in gross, on a whole parish or township, or other entire district, (App. A, General Sewers Tax, **65, 72, 110,**) and to recover it in gross, that is, in one sum, from the whole district on which it is imposed; a course which would have been productive of great convenience and economy. The Act entirely fails to secure this object. The draftsman and conductors of the Bill, and the Houses of Parliament, assumed that a parish or township was already by law liable as such to be fined or amerced in gross by a Court of Sewers, and supposed that the authority to levy the rate in gross could be very neatly conveyed by a mere reference to such an existing liability; accordingly it was declared that "the tax in gross shall be recovered and "recoverable by distress and sale in like manner, and by all such ways and means, as any fine or "amerciament imposed on a parish or township by a Court of Sewers *is now by law recoverable*," (App. A, General Sewers Tax, **197**). It will scarcely be believed that no such fine or amerciament is anywhere authorized, that no such fine or amerciament was *by law recoverable*, and that the whole provision for a rate in gross was thus based on nothing, and that except a few modifications applying to the old Sewers Rate, the entire Act is nugatory; this because Parliament, obliged to put its faith in a draftsman, assumed that a positive law existed, of which not a trace is to be found.

The same Act (*sec.* 1,) enables the Court of Sewers, as an additional power, to apportion the general tax "amongst *the occupiers of the lands and hereditaments*, which have been or may be within the jurisdiction of the court." Parliament here, instead of imagining as before a law which did not exist, was ignorant of the law which did exist, and which renders *owners, lessors, and reversioners*, though *not occupiers*, liable to the Sewers Rate, and renders those persons liable in respect of various kinds of property not capable of being *occupied* (App. A, Sewers Tax, **38** to **95**). There was no deliberate intention in the 4 & 5 *Vict.* to disturb or repeal this liability; yet utterly unconscious that there are persons *besides occupiers* liable to the Sewers Rate, and liable in respect of property *not capable of occupation*, Parliament omits all reference to them and throws the whole burden of its newly-devised tax in gross upon only a part of these persons, in respect of only a part of that property, the whole of which were doubtless intended to remain subject to the some obligations as before. For other examples in the same Act of like neglect of the actual law, and assumptions of imaginary law, see the notes in App. A, General Sewers Tax.

It is not often that the whole purpose of an Act can be sacrificed to the ignorance of Parliament, or of a draftsman, concerning the existing law, as in the first of the previous cases; but the most material and important provisions are constantly rendered inefficacious from this cause. Thus scarcely anything can be more material than the declaration of the *Persons* or *Properties* to be rendered liable to a tax. Yet there is hardly an instance in any modern Act, where the intention has been to impose the tax on the basis of the Poor's Rate, in which the purpose has been legally or unambiguously effected, not because there is any the smallest difficulty in effecting it, but merely because the draftsman dispensed himself from looking at the statute of the 43 *Eliz.*, and Parliament and the public had no ready means of checking the draftsman while the bill was in progress. Thus the Highway Rates are made taxes on the Property, without apparently following the Person (App. A, Highway Rate, **30**, and note preceding **74**.) The same defect applies to the Lighting and Watching Act, 3 & 4 *W. IV. c.* 90, *s.* 9, (App. A, Lighting Rate, **30, 70**.) with the addition of a positive confusion as to the Persons liable caused by the use in section 33 of the terms 'owners and occupiers of land,' terms not reconcileable with those of the statute of Elizabeth (App. A, pp. 247, 111). In other cases the error is reversed, and the Property is left to be inferred, and the Persons only fixed, and this often with gross inaccuracy; thus in the Militia Rate Act (43 *G. III. c.* 90, *s.* 42), the persons described as liable are the 'inhabitants of the parish, &c., according to the Rate made for the Relief of the Poor,' the strict effect of which is to omit both the chief Persons and chief Property, subjects of the Poor Rate, namely, the occupiers of the real property and the tithe owners, and to charge only the persons liable to Poor's Rate in respect of stock in trade. The defects of the Act for the General Sewers Tax, in this respect, have been partly described above. The County Rate Acts, unlike the Militia Rate Act, refer to the 'occupiers of estates and property,' and omits inhabitants, as well as parsons and vicars, (55 *G. III. c.* 51, *s.* 12); while as regards the Property to be rated, the confusion is extraordinary, being described for parishes, where Poor Rates are made, by terms inapplicable to the property liable to Poor's Rate (App. A, p. 419, **30**), while for extra parochial places, where no Poor's Rate is made, the liability of property is strictly identified with the liability to Poor's Rate (App. A, p. 420, **30**). The same confusion is extended, by adoption, to the County Rate for Shire Halls, to the Rate for Burying Dead Bodies, and apparently to the Rate for Lunatic Asylums. Not to make the enumeration fatiguing, reference may at once be made to the proper Titles in App. A, to show that in this the most important provision in relation to every tax, the confusion is almost universal.

After the declaration of the liabilities of persons and property, one of the subjects about which Parliament should be most vigilant, would be the provision for *Remedies* against an illegal tax, and against irregularities in its imposition. To take the most recent instances of legislation the 3 & 4 *Vict. c.* 88, *s.* 8, assumes that a right of Appeal is given against the Police Rate in places within the county, and affects to extend the same right of appeal to detached places; but no such appeal as the one assumed to exist does exist, and the appeal supposed to be conferred by reference is, therefore, a mere illusion (App. A, p. 519, **153**). In the majority of cases no remedy at all is given against the tax, or it is given by some equally illusory reference, or is so imperfectly constructed as to be worse than nothing, in as far as it deludes people into litigation and its expenses without affording them any protection whatever. It would be again too tedious to repeat the instances, which are generally made apparent in the notes to App. A.

Of still greater importance, however, is the subject of the *Accountability* of those who have the collection, custody, and distribution of a tax. Yet is this subject sometimes wholly forgotten, as in the Workhouse Building Rate (App. A, p. 125), the Survey Rate (*ib.* p. 130), the Rate for Gaol Fees (*ib.* p. 137), the Constables' Rate (*ib.* p. 159), the Militia Rate (*ib.* p. 298), the Burial Ground Rate (*ib.* p. 349), the Hundred Rate (*ib.* p. 307). Sometimes the existence of the

liability to account is left doubtful, as in the General Sewers Tax Act (App. A, p. 398, 266 a,). Sometimes it extends only to a part of the funds, or a part of the persons in respect of which it should be provided, as in the case with the Lighting and Watching Rate Acts, omitting overseers (App. A, p. 270); the Sewers Rate Acts, omitting the Commissioners (*ib.* p. 272); the County Rate and Borough Rate Acts, omitting justices and borough councils all through the series of rates imposable on counties, hundreds, and boroughs (App. A, pp. 460, 482, 492, 548, 576). Numerous other defects in this respect will be seen by reference to Appendix A, 266, *passim*.

Remarks on the foregoing instances;

These instances, though a very small part of what the single subject of local taxation affords, and selected only from the most important heads of the subject, will be more than sufficient to show how entirely fortuitous our legislation is upon a subject in itself the most intelligible, and capable of most accurate definition.

—on re-enactments by reference.

It will be seen that of the errors and defects above described, the most extensive are those which arise from comprehensive adoptions, for new purposes, of the law as supposed to exist at the time of the enactment. To enact that a considerable body of law already in operation shall become applicable, without change, to a new purpose, is, where the subject admits of it, at the same time the most easy and the most beneficial course that can be taken in legislation; it is short and easy to the draftsman; it adds the least possible amount to the bulk of the statutes; it adopts that law of which trial has already been made, and the practicability of which has been proved; it therefore involves no novelties, no surprises against which the members of the legislature need guard, - and is thus most readily allowed to make its way through Parliament; when carried, all the experience and interpretation of the old applies to the new law, and of the new to the old; the practical introduction of the new law is made easy by the practice of the old, and instead of various and discordant systems co-existing, uniformity and simplicity of operation are most certainly attained, and, when they become necessary, future amendments in the law may be made with equal facility and equal comprehensiveness. But to legislate in this manner, it is requisite that the law to be adopted should be known to the draftsman; and to enable the legislature to judge of the extent of the law thus about to be adopted, and of the efficacy of the terms used to effect the adoption, it is requisite that the members of the legislature should be enabled readily to refer to it. The manner of legislating by adoption should surely not be allowed to serve merely as a short cut for the draftsman, or, what is more frequently the case, as a trick to mask his want of knowledge or want of contrivance, or, still worse, to smuggle in, under a generality, a mass of law which, if placed openly before Parliament, would not be re-enacted. It should surely be subjected to some scrutiny. Practically it is subject to none at present. If, for instance, it is to be enacted that any part of the law relating to Poor Rates is to be made applicable to the Watching Rates, it is not to be expected that the multitude of statutes (see the list of them, App. A, pp. 21, 22) and cases extant on the subject of Poor Rates will be consulted by Members of Parliament or the public during the passing of this enactment. But this must be done, or some plan resorted to, of making the matter referred to accessible, or the great majority in Parliament must necessarily pass the law in ignorance of its effect.

—on the enactment of alternative provisions.

When a new law is to be substituted for the old, as an improvement, equal care is necessary to ascertain that all that was essential in the old is retained, and that what was objectionable is not preserved by inadvertency. When the substitute is offered as an alternative, both the old and the new being allowed to co-exist, as in the case of the General Sewers Tax provided as an alternative for the Sewers Rate, or in the case of the appeal against Poor Rates to Special Sessions provided as an alternative for the appeal to Quarter Sessions, it is obviously most important to let it be seen during the process of legislation, whether the one alternative adequately supplies the place of the other in all essential respects. The disparity of the purposes of the Sewers Rate 28, and of the General Sewers Tax 28, was doubtless unintentional; but it obviously admits of great abuse in resorting to the latter tax. It is equally probable that there was not a distinct intention in the case of appeal to Special Sessions (App. A, Poor's Rate, 173 b.) to dispense with the notice required to be given to persons likely to be prejudicially affected by the decision in an appeal to Quarter Sessions (*ib.* 156 a,). It is therefore as necessary, as in the foregoing case, that the existing law should be made accessible and apparent, in order that what is to be superseded should be compared with its proposed substitute, that the present law and its proposed alternative should be made capable of ready comparison.

—on occasions for repeals.

These substituted or alternative provisions, it may be remarked, afford striking instances of the want of some arrangement for producing the existing law before Parliament; for usually the old provision ought to be repealed to make way for the new one, which must be supposed to be passed only because it is considered an improvement. In law, whatever may be the case in other matters, there can be no doubt that two provisions for the same matter are worse than one. If Parliament could venture to do it, they would rarely neglect to repeal the old law as they made new; but without knowing the old precisely, it is dangerous to repeal it, and it appears to be, and usually is, safer to introduce new law as an addition and an alternative, than to make a clear place for it by a repeal of which nobody sees the extent or consequences. It thus occurs that an accumulation of original and substitute provisions co-exist for the same purpose. The co existence of the Sewers Rate, and of the General Sewers Tax, is apparently an instance of this; the co-existence, in the Tithe Commutation Acts, of two distinct sets of provisions for determining the boundaries of properties and parishes (1 *Vict. c.* 69. *s.* 2; 2 *&* 3 *Vict. c.* 62. *s.* 34, 35, App. A, Poor's Rate, 121, 122), the first of which ought to have been repealed, is another; the co-existence of three discordant sets of provisions for the inspection of Poor's Rates (17 *Geo. II. c.* 3. *s.* 2; 17 *Geo. II. c.* 38. *s.* 13; 6 *&* 7 *W. VI. c.* 96. *s.* 5, App. A., Poor's Rate, 139, 140, 141), is another; the co-existence of an original appeal to Quarter Sessions, of an original appeal to Special Sessions, and of an appeal from thence to Quarter Sessions (App. A, Poor's Rate, 154, 171, 178), is another; the co-existence of three general accounts, and of a multitude of special and occasional accounts by overseers (see note to Accounts, App. A, p. 85; and Poor's Rate, 278, 279, 280), is another; the co-existence of two appeals to the same Sessions against the accounts of overseers, (App. A, Poor's Rate, 286,) is another; not to mention multitudes of like instances applying to most of the other rates, and to be found by inspection of App. A. Every such instance is at least an useless incumbrance to the Statute Book, and to every compilation; and

causes a perpetual embarrassment to the public, to functionaries, to courts of justice, and to Parliament itself.

—on amendments.

As to simple amendments and corrections of the existing law, the necessity of some means of securing their adaptation and conformity to the law to be amended, speaks for itself. But the whole body of the statutes subsequent to the first law imposing any tax, as, for instance, nearly the whole of the provisions for Poor Rates subsequent to the 43 *Eliz.* (of which a list is given, App. A, p. 23), are examples of the process of amendment, the clumsiness of which may be inferred from, and fairly estimated by, the great multitude of the accumulated provisions. There is abundance of examples to be found in the following Appendix, where unquestionable amendments in details have produced, through want of proper combination with the mass of matter to which they have relation, an amount of confusion often more than counterbalancing the independent value of the amendments,—such is the introduction of the definition of rateable value of property (App. A, Poor's Rate, **95** b.), for the exclusive purpose of the Poor's Rate, omitting all reference to the other rates previously laid on the basis of the Poor's Rate,—by which oversight most extensive anomalies have been unintentionally introduced in the imposition of almost the whole of our local taxation.

—on repeals.

It is also perhaps too obvious and notorious to require to be dwelt upon, or illustrated by examples, that repeals of statutes are as dangerous as any of the preceding legislative operations, unless the body of law to be repealed, and the body of law to be revived by the repeal, or enacted in its place, are both made conspicuous, side by side, to the legislature during the process. One example of an insufficient repeal is presented by the abrogation of the liability to pay Poor's Rate in respect of personal property (App. A, Poor's Rate, **74**). This liability is only by implication repealed in the case of some other rates, viz., the County Rate *semble* in extra-parochial places, **31, 70, 74**; *semble*, but *qu.* in parishes, **30, 70, 74**; the County Rate for Lunatic Asylums *semble* and *qu.* as before, **32, 71**; the County Rate for Shire-halls *semble* and *qu.* as before, **32, 62**; the Rate for Burial of Dead *semble* and *qu.* as before **32, 62**; the Hundred Rate, where there is a County Rate, subject to the same question as County Rate, **32, 33, 62**; where there is no County Rate or similar fund, then as Poor's Rate, **30, 44**; the Borough Rate, when paid out of Poor's Rate, **30, 66** a, **68, 70**; but *qu.* as above when made as County Rate, **32, 62, 66, 71**; the Borough Watch Rate, when paid out of Poor's Rate, **66**. The liability is left in full force in others, viz., in the Constable's Rate, **30, 70, 74**; the Highway Rate, **30, 59, 74**; the Lighting Rate and Watching Rate, **30, 59, 70**; the Militia Rate, but *qu.*, **30, 74**; the Church Rate, **59**; the Burial Ground Rate, (*qu.*) In other cases it is doubtful whether the liability is repealed or still exists, viz., as to the Gaol Fees Rate, **30, 71**; the Police Rate, **32, 62**; the Borough Rate, **30, 32**; the Borough Watch Rate, when not paid out of Poor's Rate, **66, 71**.

The Remedy.

IF THIS enormous and growing evil of uncertain law, made more uncertain by the very institutions created for its amelioration and reconciliation, were inevitable, it would of course be useless to discuss it; it should be borne with, and attention directed to remediable evils. Even if it were really a matter of serious difficulty to place distinctly before Parliament the existing material which they are engaged in altering, it would be a speculative rather than a practical use of time, to spend it in considering whether the legislator should or should not continue to do his dangerous business, as at present, groping in absolute darkness, or at best in a confused glimmer amongst the laws on which he operates, or whether he should not only himself see, but also display to others, the material he works upon, in as clear and definite a shape as possible, so as to be able to adjust deliberately his own efforts to the recognized exigencies of the occasion, and to show to the public the reasons and relations of his work. Great as might be the abstract interest of such a question, the existence of any serious preliminary difficulty would inevitably defeat the object with an assembly like a Parliament in which the immediate ease and pleasure of prompt legislation is not kept in check by any responsibility, or even by any very lively consciousness of the future inconvenience and misery which are eventually to result from inconsiderate action. It is because it is believed to be not only practicable but extremely easy, to supply Parliament in every case with the requisite means for seeing clearly the operation of the work it has in hand, and for securing a comparatively high degree of certainty in the operation of the laws it passes, that the present suggestions are offered.

It is perhaps not possible, by any mechanical arrangement, to secure in a popular legislature the general possession of very extensive or accurate knowledge of the subjects of legislation. The extent of knowledge of the actual members of the legislature is the utmost measure of the knowledge that can be included in any of their ordinances; and even the prejudices and misconceptions prevalent in considerable minorities must necessarily be represented in the acts of legislation. Again, it is difficult to provide, by mechanical arrangements, for a correct and orderly expression in the statutes even of what is the will, right or wrong, of the legislature. This must always depend on the accuracy of conception, the logical skill, the resource and contrivance of the draftsman, whether he be an amateur or professional draftsman. Some rules of legal composition might be adopted, and committees might be formed with the view to watch and control, or perhaps to execute, the business of drafting the statutes, as the judges formerly did in England; but still the limit of the extent of verbal skill, and of logical method possessed by the individuals employed, would constitute the utmost limits of good drafting.

—parliamentary compilations.

But there is no such narrow or casual limit to the power of producing to the legislature the actual law which it is proposed to confirm, to modify, or repeal. The existing statute law on every subject is a fixed quantity. It is to be found bodily in print. As every person is in law presumed to know the whole law, and is bound to act on it, it is not too much to say of professed legislators, that no person is justified in legislating on a subject without knowing the law on that subject accurately, or at least knowing that it has been examined by competent persons and found defective.

Now, in fact, no competent and conscientious draftsman does ever proceed to draft a clause without referring to the existing law. He does compare the correction with the thing corrected, what he adds to with the addition, and examines minutely what he repeals; and to do this well he is compelled to make a comparison, *pari passu*, clause for clause, phrase for phrase, word for word, of the old law with the new law he prepares.

What is wanting, and what is now proposed, is, that what an honest and competent draftsman invariably does, when such a one is employed, should be required to be done in every case, and that what he does mentally should not stop there but should be printed, and should accompany the draft of the proposed measure; in other words, that WHENEVER A BILL IS PRINTED, IT SHALL BE ACCOMPANIED BY A PRINTED COMPILATION, ARRANGED IN THE SAME ORDER, OF THE LAW DIRECTLY AFFECTED BY THE BILL.*

Unless the existing law be printed in juxta-position with the projected law, there is no security that even the draftsman himself will do his duty. The multitude of instances referred to before show how rarely it is now done. It cannot now be assumed that any draftsman does it as a matter of course. But if these materials were to be printed, it would both compel him to make the requisite research and comparison, and satisfy the legislature as to the extent to which he had done so.

There is no admissible plea of difficulty in this. If the draftsman does or can find the law, as he is supposed to do, he can produce it. If he can so analyze it in his mind as to compare its parts with the new proposal, he can place those parts on paper, and in the order of his new proposal, so as to make the comparison easy and immediate. If he is capable of making an orderly draft of new matter where he has, in addition, to exercise his faculty of contrivance, he can surely put old matter, as it is produced to him, into the selfsame order. This order, if a good order for the proposed new law, will be equally good for the old, and conversely; and it will afford the opportunity for immediate comparison of the two better than if he should contrive a different order for each. So far from these things involving a difficulty to the draftsman, they constitute the indispensable requisites for performing his labour, and for his justification afterwards. And since professional draftsmen at present usually make some notes and memoranda more or less rude for their private use, the proposal, as to them, only involves a little more or less additional elaboration to fit the same materials for public use.

If the existing law is to be protected from rash and unintentional meddling; if consistency in the old and new law are objects thought worthy to be attained, no security so effective for these ends could probably be found, none so gentle, or operating so simply on and through the convictions of all who are concerned either in making the laws or in obeying them, as the exposition of the materials on which the process of legislation is to take place. It is almost impossible when an orderly compilation of the old law on any subject is made, that it can be allowed to be abrogated to make place for a less complete and applicable system. It is impossible, on the other hand, but that the defects which require correction will, when they are brought together and made visible in a compilation, be more readily admitted, and desirable amendments more readily allowed. It is impossible but that corrections and interpolations must be more carefully and accurately adjusted to the law to be amended when both are produced in contact. It is impossible but that, as new law is substituted, it will be as comprehensive as the old, which is placed in immediate comparison with it; and that instead of accumulating modern alternatives upon obsolete law, the obsolete law will, when its materials are produced, and the extent of obstruction caused by them is made appreciable, be cleared away to allow fair scope for the new.†

The advantage of doing all these acts of legislation deliberately and with ample knowledge cannot be disputed; that it is habitually so done will hardly be maintained; at all events the foregoing examples, in a matter in which it was least likely that neglect and ignorance would be apparent, serve to show how frequently it is not done. But it may still be said that the means of obtaining all the requisite information already exist. They do so; but they are not at hand in an available shape. The matter, so far as statute law is concerned, is in the statute book; but who does, indeed who can, upon a sudden doubt arising, or in the course of debate, or in the moment for deciding, seek it out? Who, for instance, would, without some indication, seek all the original authorities for an enactment so simple in effect as this:—

POORS' RATE.
(154)
Where any person,
43 *Eliz. c.* 2, *s.* 6.
17 *Geo.* 2, *c.* 38, *s.* 4.
owner' or other,
59 *Geo.* 3, *c.* 12, *s.* 22.
finds himself aggrieved by any rate made for the relief of the poor,
43 *Eliz. c.* 2, *s.* 6.
17 *Geo.* 2. *c.* 38, *s.* 4.
in any parish,
43 *Eliz. c.* 2, *s.* 6.
or in any township or village,
13 & 14 *Car.* 2, *c.* 12, *s.* 17.

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* The indexes suggested by Mr. Symonds in the papers relating to the drawing of Acts of Parliament (Parl. Pap. 1838) would afford the material for such compilations, and deserve attention on this account as well as for their other more immediate objects

† It is scarcely possible to exaggerate the evil resulting from the constant addition to old statutes, of amendments upon amendments, and of alternative and cumulative matter. The original statute can of course never indicate the subsequent additions; professed amendments do, it is true, usually refer to the pre-existing enactment they propose to modify; but the great mass of cumulative legislation gives no indication of the rest of the law on the same subject.

It would be a great improvement to prevent this accumulation, and the consequent confusion and conflict; and this the writer conceives could be done by a simple process, to which he is not aware that any valid objection exists.

An amendment in an old statute, or an alternative to it, would always, beyond question, be in its best place, if it could be interpolated in the body of that statute. A re-enactment of the old statute, with the amendment or alternative provisions inserted, would evidently have the same effect.

But there would be danger in constantly bringing the old law bodily into Parliament to be re-enacted. It would be exposed to alterations much exceeding in importance the proposed amendment, likely to be effected on such an opportunity without due deliberation. To prevent this there might be a standing order that amendments on a statute might be proceeded with alone through all the stages of the bill; but that at the third reading the entire amended statute should be repealed, and re-enacted with the interpolation.

In order to effect this, a standing order of both houses, of the same purport, would be necessary, as well as a standing form for the repealing clause, and for a clause to render valid and to continue under the re-enacted statute, all antecedent acts and proceedings under the repealed statute.

If this be possible, as supposed, it is obvious that not only the amendments and additions to the statute law would be more safe, but that a rapid and secure process of consolidation would be involved in it.

or in any union for rating,
4 & 5 *Wm.* 4, *c.* 76, *s.* 35.
or has any material objection to any person or persons being put on such rate,
or left out of such rate,
or to the sum charged on any person or persons therein,
or finds himself aggrieved by any neglect, act, or thing done by the 'overseers,' or by any 'justice,'
if the person so aggrieved
give reasonable notice of appeal
to the 'overseers' of the parish, township, or village,
17 *Geo.* 2, *c.* 38, *s.* 4.
and to the other persons, if any, entitled to such notice,
41 *Geo.* 3, *c.* 23, *s.* 6.
THE PERSON SO AGGRIEVED MAY appeal
to the next general or quarter sessions of the peace for the 'county' or 'place'
where such 'parish,'
43 *Eliz. c.* 2, *ss.* 6 & 8.
17 *Geo.* 2, *c.* 38, *s.* 4.
or union for rating,
4 & 5 *Wm.* 4, *c.* 76, *s.* 35.
lies.
17 *Geo.* 2, *c.* 38, *s.* 4.

or this?—

CHURCH RATE.
(222)
Where any Quaker
7 & 8 *Wm.* 3. *c.* 34, *s.* 4.
refuses to pay any church rates,
or any customary or other rights, dues, or payments belonging to any church or chapel which of right by law and custom ought to be paid for the stipend or maintenance of any minister or curate officiating therein,
1 *Geo.* 1, *stat.* 2, *c.* 6, *s.* 2.
if any churchwarden or other person who ought to have, receive, or collect the same, complain thereof,
7 & 8 *Wm.* 3, *c.* 34, *s.* 4.
and *if* such Quaker have reasonable warning (of such complaint?)
1 *Geo.* 1, *stat.* 2, *c.* 6, *s.* 2.
ONE OF THE NEXT JUSTICES of the peace,
53 *Geo.* 3, *c.* 127, *s.* 6.
of the same county,
other than such justice of the peace as is patron of any such church or chapel,
1 *Geo.* 1. *stat.* 2, *c.* 6, *s.* 2.
MAY, by warrant under his hand and seal, summon such Quaker,
before the two next justices of the peace of the same county,
7 & 8 *Wm.* 3, *c.* 34, *s.* 4.

But when the matter is so compiled, who can have any excuse for not referring to the original matter when any case of doubt, however slight, arises?

It may be objected that much of the matter is already collected and methodized in treatises, text-books, and orderly compilations. This is true, but all is not so collected; and what is collected is rarely either sufficiently complete or sufficiently clear of non-pertinent matter for the immediate purpose of legislating upon the materials;—only the general effect of the law is usually stated in treatises; the matter is disposed according to the divisions of the treatise, predetermined by some general considerations, not applicable to the varying occasions of legislation; or else the entire statute or its entire clauses are introduced bodily without analysis or order; the matter is at best collected for general purposes, which are rarely likely to be co-extensive with the subject about to be legislated on. For an instance, Burn's Justice is as good a book of printed reference upon any of the subjects of this Appendix as can be found; but if reference be made to it for the purpose of legislation on any of these subjects, it will be seen that the materials are not so divided or methodized as to enable a comparison to be made in detail with any proposed measure. Ordinary compilations, therefore, as a fact, are not adapted to the casual and multifarious exigencies, sometimes extensive, sometimes minute, of the legislature. Nothing but the materials to be directly affected by the proposed measure should be compiled for the use of Parliament, and nothing less than the whole of these is requisite.

Advantages of such compilations

IT IS submitted that such a compilation would usually be of itself the most speaking and conclusive recommendation of the proposed law; that it would establish the defects of the old law more irrefragably, and to a greater number of persons, than any number of reports of committees or commissions, of breviates of bills, of speeches, discussions, articles, or pamphlets; that it would secure more effectually than any general caution or vague jealousy of innovation can do, the retention of all valuable institutions, of all that experience has approved, but which is now in constant jeopardy of being abrogated by some chance blow, the direction and effect of which nobody can foresee; that it would thus at the same time most effectually prove existing defects and enforce the appropriate remedies, while it would be conservative of all that is either positively valuable in our law or is not yet deliberately condemned.

The more special uses of such compilations would be different to the draftsman, to the member of Parliament, and to the community generally.

—to the draftsman,

As regards the draftsman, they would in all cases enforce a complete examination of the law on his part; the preliminary compilation would be the most efficient and most immediately improving of any discipline to which he could be subjected in approaching the task of framing a Bill. This first process would suggest to him details now often overlooked. It would afterwards secure consistency of expression in the amendments and interpolations to which his Bill would be subjected in Parliament. Where the task of the draftsman was merely that of consolidation, the process of collecting and methodizing of the old materials would constitute of itself the completion of his task;—his Bill would so far be a transcript of his compilation. Generally the justification of what he did would be self-apparent in the compilation. On the other hand, he would be subjected to the salutary consciousness that, by exposing his premises and materials, he would render every one of his omissions and misconceptions of the existing law capable of easy detection and conclusive proof.

to Parliament. Next as to Parliament. The work of the proposer of the measure would be rendered easy by the avoidance of the multitude of explanations required to answer doubts expressed, and by removing that still greater impediment, the silent resistance founded upon doubts not expressed. If his measure were an improvement, its production face to face with the law to be amended would be its unanswerable recommendation. But not the proposer alone, but every other member, would find his business of deciding equally facilitated, and his justification with the public made comparatively sure by the same means by which he himself came to his conclusions.

—to the public. The advantages to the community of cautious and yet effective legislation, need not be stated,—our whole political, and nearly our whole social condition being dependent on it. But in addition to the general security for cautious and effective legislation; there are some minor advantages involved in the present proposal of sufficient value to deserve remark. The compilations would be of greater value as books of information and reference than anything likely to be prepared on private speculation for sale; and this would be the case whether legislation immediately followed upon the compilation or not. Where legislation did follow, the compilation would be the most luminous and satisfactory comment in many cases on the new law; it would always prove at least what materials the legislature had had before them. If ambiguities or defects occurred in the new legislation, their precise nature would very often be shown and accounted for by omissions and defects of the compilation; while departures from the old law would be proved to be intentional where the compilation was found to have brought the old law clearly before the legislature. In this way these compilations would probably exceed in value,—as evidence of the views and purposes of the legislature, especially where consolidations of the old law were effected,—any commentaries or collections in the nature of the *procès verbal* prefixed to the Digest of the *Coûtumes d'Orleans*, or the authoritative reports of the materials used and objects referred to in framing various public digests, such as the *Conferences* on the Code Napoleon, or Simon's account of the Prussian Digests, or Von Zeiller's Commentary on the Austrian Civil Code, or the *Précis* on the Russian Code, all of which are of incontestable value. The probable influence of such compilations as those now proposed, both as orderly collections of materials and as indications or evidence of legislative intention, is obvious in preparing the way to popular and professional treatises, in which the public have a very considerable interest. But the greatest of all advantages would be, that the compilation of the matter of a long and intricate series of laws, after having been some time submitted to examination by the public as mere compilations, and after having stood the test of reference and examination, would acquire a proved value as digests, and would be passed into law as consolidations. The mass of our law would thus rapidly be brought into order without the abruptness and danger of change attending sudden and simultaneous codification.

Some objections anticipated; THE OBJECTIONS which will be made to the proposal are probably these:—1st. That the preparation of such compilations must postpone and impede the production and progress of bills, especially where additions are proposed after the introduction of the bills, and during their course through Parliament. 2d. That they would be a great expense. 3d. That they would add greatly to the present cumbrous mass of parliamentary papers.

—delay; As to the first objection, the proposal does truly imply that the new measure shall not be introduced till the old law has been examined, and an orderly compilation of the materials corresponding with the proposed measure displayed. But the process of collecting and comparing the materials is one of unquestionable necessity as a preliminary to legislation, and without doubt ought to be done by some one. In cases where it is conscientiously done by the draftsman or proposer of a measure, the present proposal involves nothing new in the way of labour but the printing. It therefore only involves delay in legislation where legislation would otherwise take place without due circumspection. Busy people, desirous of doing something, not caring much what, or knowing how, might sometimes be baulked of the satisfaction of wedding their name with an Act of Parliament. But it is not legislation for legislation's sake that is wanted by the public, but good, cautious, effective, and consistent law. If the adoption of the proposal would assist the latter, and prevent or impede incautious, fragmentary, and discordant legislation, nothing better could be said in its favour. But admitting, what is a fact, that some additional time would, in almost all cases, be consumed in preparing and printing the compilation, still the time thus consumed in preparation would be recovered over and over again in the interval of the passing or rejection of the proposed measure; the inquiries as to the proposed operation of the measure; the disputes as to its actual or probable effect; the inert resistance of doubt, and ignorance, and fear, would be often removed. Not only would this be the case, but a progress in legislation would be attained at the same time, much more rapid and much more preservative in its operation than is now possible; for such compilations as are proposed would show wherein the fragmentary measures now so commonly introduced with a view only to partial or special cases, are not comprehensive enough, and would suggest, in the stead of such abortive fragments, the necessity of more complete, thorough-going, and consistent reconstructions. In the same way, also, new measures would be more rapidly carried into execution, by facilitating the passing of the amendments and supplements, which are usually found by subsequent experience to be necessary to bring provisions of a character entirely new into effective action, as well as by the operation above adverted to, of clearing away fragments of old law, and making the purpose of the new law clear. Thus, in the long run, both the mere process of legislation, and what is in truth the only matter of real importance, the bringing of the law into complete and harmonious action, would be rendered more rapid by the very means which would prevent over-hasty beginnings. It may, however, be said that such compilations would be inconvenient in the case of amendments and additions proposed during the course of a measure. It is often true that time can then be less conveniently spared than while the measure is preparing; but it is also true that this alleged want of time is in great measure produced by want of proper preparation of the principal parts of measures; and, what is worse, this very pressure for time is often cunningly calculated on as a means of stealing in provisions which would never be proposed if there were time to canvass them. It is notorious that the promoters of measures themselves often intentionally keep back clauses inconvenient to discuss, with the intention of getting them slipped in as amendments when there is no time left for deliberation. Nothing so much destroys the consistency of our statutes as these hasty amendments. Nobody is so irresponsible to opinion as the proposer of an amendment; nobody has so many unfair advantages. Scarcely anything

could be more beneficial than an arrangement which would enforce as much investigation and forethought in the proposal of amendments as in the proposal of original measures. There is no more public need of hasty amendments upon bills than there is of the hasty preparation of the bills themselves.

The objection, however, that the preparation of compilations corresponding with the matter of amendments would cause delay at all, is not to be admitted as a general consequence; for the compilation of the law for the whole bill will usually itself include all that is required for any amendment which could properly form a part of the bill; and thus instead of proving an impediment to consistent amendments, will even suggest and prepare the way for them.

—cost;

The second objection, that expense would often be incurred where none is incurred now, cannot be denied. The first compilations would be the most costly; and as they could only be done by persons of some special knowledge and skill in law, the cost could rarely be avoided, as the cost of drawing bills now often is, by the gratuitous labours of amateurs.* On the other hand, there is a set-off in the incongruous and abortive measures, which now abound more than they would under the proposed arrangement; these being very costly in their preparation and in their progress, both to individuals and the public. Anything which would operate to impede the initiation of such measures, would be a great cause of saving money, to which saving in money is to be added the saving in time of the legislature, by passing measures which would be much more extensive and comprehensive, and of time, suffering, and expense to the public, in getting ill-framed laws brought into operation, or repealed, or amended. Moreover, the cost of the proposed compilations would rapidly diminish, as the task would gradually be rendered easier by the existence of preceding compilations more or less inclusive of the same matter.

—cumbrousness.

As to the third objection, it is admitted that the consequence of the universal adoption of the proposal would be, that most bills would be accompanied by compilations usually exceeding the bills themselves in the quantity of their matter. It is, nevertheless, very questionable whether, on the whole, an addition to the mass of Parliamentary papers would be a consequence. Many of the present bills would not make their appearance at all; each bill would be more effectual for its purposes; several such bills as now appear would then form but one measure; and lastly, a vast quantity of rambling information, unconnected and abounding in repetitions, in the shape of reports and returns, now supposed to be necessary, would become unnecessary. But admitting that an addition to the mass of papers would be the effect; this would scarcely be an objection, if the new matter was itself valuable.

Mode of adopting the above suggestion.

There needs no new provision for the adoption of the above recommendations. It is presumed that the same facility which is now given to Members of both Houses of Parliament, to print analyses or explanations, accompanying their bills, would be extended to any compilation of the kind here proposed. If tried in a few instances the good or bad effect of the recommendation would be soon practically known, and a conclusion might then be safely come to, whether or not such compilations should be required in future, as a matter of course.

INNER TEMPLE, 6th July 1842. GEORGE COODE.

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* Nevertheless the cost need not be alarming. The compiler has made an estimate, founded on a partial progress with the work, that the whole of the Poor Law Statutes in force on the 1st of July 1842, amounting to 123 exclusively relating to Poor Laws, besides 21 containing considerable provisions, and not less than 67 containing small or incidental provisions as to the poor, could certainly be analyzed with as much minuteness, and combined and arranged as carefully as the present Appendices, by a single person, with the aid of a clerk, in the space of six months. The whole of the Statute Law relating directly to Justices of the Peace, and to be carried into operation by them, could be prepared in the same manner in less than two years. All the Statutory Criminal Law in less than three months.

[*The objects of the above Paper were further urged in a correspondence with the Poor Law Board in* 1851–52, *printed by order of the House of Commons. As this Correspondence was the first stage in the undertaking of the* POOR LAW DIGEST, *it is printed as an introduction to that work.*]

SECOND APPENDIX—BEING A DIGEST OF THE ACTS FOR THE RELIEF OF THE POOR,

is contained in separate Volumes, and will be circulated as soon as the letter-press is corrected.

G. COODE.

III.—ON CONSOLIDATION.

Consolidation distinct from Registry and Digestion;

(97.) The processes considered in the preceding papers are such that they can be as effectually performed by private hands, without public authority, or administrative or legislative ability or experience, as with them;—the first process (34-47) consisting merely of the ascertainment and Registration of pre-existing facts, and requiring for its performance nothing more than patient and intelligent industry; the second, Digestion, (48-91) requiring only practice in the analysis and methodical re-composition of materials already provided, and in which contrivance, invention, knowledge of affairs, practical caution, sagacity, and political courage and public spirit—the legislator's necessary qualities—have no concern.

Consolidation, partly practical;

(98.) By Consolidation, however, is understood that act of public power by which the materials of the pre-existing law are to be reconstructed and promulgated in that form in which they may be practically adapted to the circumstances and interests of the time.

And this process of Consolidation involves, not only the adoption of all the results prepared in the process of Digestion, and by which mere formal deficiencies, redundancies, inconsistencies, are displayed, and their amendment suggested as a mere logical consequent, but it involves also the responsible exercise of a discretion even in rejecting what is consistent, well expressed, and well methodized, for the sake of better practical provisions; as well as the adoption of new, perhaps unprecedented provisions, calculated to give greater efficiency to the old law, or even to bring into operation new expedients and principles of legislation. In short, whatever of the digested matter is to be retained, whatever is to be rejected, and whatever is to be superadded to it, must be determined upon grounds quite foreign to those upon which the best compilation of a Digest would be founded, namely, by a practical judgment requiring the use of all the qualifications of the able and experienced administrator, legislator, and practical statesman.

examples:

(99.) To take an example from the Digest of Poor Laws appended to the preceding paper; it displays in every page and in almost every paragraph some practical deficiency, some obvious redundancy, and within each paragraph, or between one and another, some want of consistency or some positive incongruity; but this Digest in all such cases only suggests that something is wanting or that something is in excess. To supply the deficiency, to prune the excess, to determine which of two parts shall be rejected and which retained, is in every case a practical question, requiring for settlement a practical judgment, and often a practical invention,—not a lawyer's, nor a jurist's, nor a compiler's function, but—the business of practical statesmanship.

If such be the case with the smaller details, it is obviously still more so with the larger members of the subject. These involve questions which require ages of experience, discussion, deliberation, to dispose of. As whether the whole body of law or its principle shall be maintained or abrogated; or if the principle is to be maintained—whether it shall extend to all its present subjects the classes of poor now within its scope, limited only to some of them, or extended to others beyond its present scope. And these questions being determined upon principles or considerations of policy,—whether the multitudinous and anomalous modes of relief authorized and accumulated during three centuries of varying experiment shall still continue authorized, or whether they shall be reduced to fewer modes, approved by practical experience, or increased by others suggested for adoption by practical sagacity. And these questions being determined,—whether the conditions upon which relief is to be given and received,—the obligations and responsibilities attendant upon its receipt,—the discipline to be enforced and submitted to in its administration,—shall be retained, abandoned, or increased, to any and what extent. And having determined practically all these questions,—whether the mode of imposing the consequent obligation upon the community,—whether the persons subjected to the burden, or fewer

or more, shall remain subjected to them, and contribute in respect of the means on which they are at present charged, or whether other means shall be brought into contribution. And all these things being practically determined,—whether the present mode of administration of the law in such localities, by such ministerial officers, with such superintendence, control, and direction, and with such remedies against the defaults of all, as are now provided, shall be, one or the other, to any greater or less extent abandoned or maintained or modified.

All these questions, and hundreds like them, press daily on the consideration of the statesman, and when the whole subject is brought forward for consideration, it would not only be a plain abandonment of a great opportunity to neglect any occasion favourable for disposing of all these matters—of solving all these questions practically, according to the best lights and opportunities of the time; but it would doubtless be found an utter impossibility to pass a consolidation through the stages of legislation, excluding the discussion of practical questions, and the adverse, if not the amicable introduction of substantial as well as formal amendments.

this element not definable;

(100.) This element of practical policy and statesmanship, necessarily and inevitably involved in the process of Consolidation, is one that can be submitted to no rule more precise or minute than the general principle of adopting on every occasion what may appear to be on that occasion the most useful practicable course; in other words, the field of operation is all human affairs in all circumstances,—the means of operation all human intelligence and power,—and the object the utmost attainable utility. These manifestly transcend all rules and all methods that can be laid down at any time by anticipation.

partly formal; Recommendations,

(101.) But when the practical determination is in any case come to by any means whatever, the matter concluded comes again within the operation of the rules for expressing laws, (91) and for preserving the relative connexion and order of their elements. (50-89.) Here the statesman's special function is at an end,—the simple principles of method and composition have undisputed and undivided control. The function of the formal Compiler revives. And here it would appear that, in addition to many rules of smaller importance, there is one expedient of great importance for the realization in the most complete and simple manner of this process of Consolidation.

Consolidation consists mainly in the replacement, in an improved expression, form, and order, in one synchronous enactment, of an indefinite series of distinct pre-existing laws.

as to repeals;

As it comes into effect, the pre-existing laws which it replaces cease to have effect. The instantaneous and identical operation is, that as the one comes into force the others are defunct, and it would be to lose the chief benefit of Consolidation to leave any part of the previous law on the same subject still in operation. In other words, Consolidation of the law should imply an equivalent Repeal of law.

in separate acts.

(102.) It is desirable to disencumber any Consolidation of the law of all matter that is foreign or unnecessary to it; and the Repealing Clause, which would generally be very cumbrous in connexion with any comprehensive consolidation, (in the case of the Poor Laws would extend to above 300 articles, some requiring a minute and detailed expression,) would be a serious incumbrance if inserted in any act.

A good practice has been adopted in many cases, of enacting the Repeals in acts separately and distinctly from the consolidated or new enactments, as in the case of the acts 3 G. 4. c. 41., and the four following chapters 42, 43, 44, 45.; and of the 5 G. 4. c. 95. and the two following chapters 96 and 97; and of the 6 G 4. c. 105. and the eleven following chapters; and of the 7 & 8 G. 4. c. 27. and the four following chapters; and of the 9 G. 4. c. 53. and the three following chapters; and of the 1 & 2 W. 4. c. 36. and the following chapter; and of the 14 & 15 Vict. c. 71. and the . . following chapters, and in

other instances that it would be unnecessarily tedious to enumerate. The advantage of this course is, that the repealing act and repealed acts all sleep together, and need never again encumber the library, the law, or legislation.

This practice should be invariably adopted, not only in formal consolidations, but on every occasion when any portion of the Statute Law, however minute, is formally repealed, or in effect superseded. This practice alone, consistently carried out, during the last thirty years would have relieved the statute book of three fourths of its contents, and would have made the task of consolidation easy now to perform or easily to be dispensed with.

Confusion of permanent and transitory laws;

(103.) Somewhat similar considerations apply to another very cumbrous and very detailed branch of legislation, which has hitherto exercised, through the way in which it has been dealt with, a very injurious effect upon the expression, form, and bulk of the permanent and most important part of our legislation; that is, the incorporation in one series of provisions of Transitory matters with Permanent.

The whole business of legislation is to effect the changes in the law which the progress of society and increasing complication of interests require. No legislation can be supposed to be so perfect at the time of its promulgation as never again to require change; and all legislation, as it effects a change, implies the probability of a future change.

permanent;

Still the greater part of legislation has for its object the arrival at a settled and more or less stable and permanent condition of the rights and obligations of all the members of the community; and, effectually, a large and important portion of English legislation has been permanent through centuries; and all legislation whatsoever intended to establish rights, (57-59) or to impose and define obligations, (60)—the only material and substantive part of the law,—is in its conception, and, when successful, is in its effect, of this permanent character. And it is precisely this portion of all law that determines the general and special character of every legal system, and is productive of those political and social results which are the ultimate objects of all legislation, and the consummation of all political success. It is only this portion which it much concerns us to make clear to the conceptions of all men, inasmuch as all subjects are equally interested in it, and it is this portion which, when once approved in practice, it most concerns us to make permanent. In short, nothing can justify the withholding of any labour which can be usefully bestowed upon it.

mutable;

(104.) All other matters, modes of protection, remedies, procedures, administrative and executory arrangements,—even the greatest constitutional and political institutions,—are but subservient and ministerial to the establishment and maintenance of individual rights. These instrumental institutions suffer, without legislation, incessant change, and are the constant subjects of express legislative modification. No doubt they have a stability generally proportionate to their usefulness in subordination to their prime object, and while they subsist good expression, good form, and certainty of effect in them, is also useful in proportion to their duration.

(105.) But these instrumental institutions are, for our present purpose, of two kinds; the one set subservient to the permanent rights of the community, and which themselves, in their intention and expression, are always of a permanent nature.

These, so far as they are specially connected with any primary subject of consolidation, should be consolidated with it in one operation, and would become subject to amendments with the whole of the consolidated act, of which, indeed, they would be, in the ordinary course of things, the only part subject to much or frequent amendment.

transient.

(106.) But the second set of instrumental provisions, those, namely, which, in their conception and original institution, have a temporary and transitory character, and are adopted only as a means of transition from one state of things to another, and, by the terms of their institution, become defunct as soon as the transformation is effected, require a wholly different treatment.

When the object is to effect such transformation,—say, for instance, to enclose a waste, to convert common into severalty, to convert tithe into rent, and commute it for a rentcharge, to settle boundaries, or the like,—the result, when effected, is a permanent result calculated to endure, perhaps, for all time; but the law which will then apply to this result will be found in the general permanent law of several property, of rent, of rentcharge, or boundary, or whatever the transformed subject may be; and a few sentences will in every case express all that is necessary to identify the subject thus transformed, with all its congeneric matter, and to confer on it all its qualities, incidents, and consequences; and this expression is all that should appear in any Consolidated or any Permanent Law.

All the instrumental provisions, the appointment of commissions, their investiture with powers, the definition of their mode of proceeding, their protections, and their responsibilities, are Transient accessories, doomed to disappearance and extinguishment as soon as their temporary work is done.

It is impossible to produce cumbrousness and complication of form, and concealment of essential matter, more effectually than by the present mode of legislation in all such cases. In the instances above adverted to, the Register prepared according to the paper I. (. .) shows that in the acts passed for effecting the commutation of tithes, the enfranchisement of copyholds, the enclosure of waste, and severance of commons, about one clause in forty-three contains a permanent element, and that even in this one clause it is commonly but a part intermingled with a greater portion of transitory matter. I have not examined all these clauses with sufficient minuteness to assert the proportion very precisely, but am satisfied that the total permanent matter in the whole of this great mass of enactments does not constitute nearly a one hundredth part of the whole. Thus, by this present mode of providing in one undistinguishable set of enactments both the Permanent Result and the Transient Process by which it is to be obtained, we, and all generations of men, have to wade through ninety-nine parts of inoperative lifeless verbiage for one part of living law.

Yet in no one instance that I have ever observed has it occurred that the clearness of expression or the practical effect were improved by this intermingling of transitory and permanent matter; on the contrary, in every experiment that I have made, the permanent matter, when separated from the transitory, has come out in a vastly improved form, simpler,—clearer, more rational, and more emphatic.

Recommendation of separate acts for permanent and for transient matters; effects;

(107.) The result is, that all Transitory matter should be kept asunder from all Permanent, and each enacted in Separate Acts, which would thus, as regards the Transitory provisions, be published and republished only so long as the Transitory Operation continued. This would clear a consolidated law;—

1st,—of all Retro-active enactments;

Repeals;

Nullifications;

Confirmations;

Ratifications:

2d,—of all Occasional enactments, that is, of such wherein the force of the law is spent on one defined occasion;

Protections for life or other periods of vested interests affected by permanent changes;

Compensations to individuals for life or lives for meritorious services;

Instrumental acts providing the temporary machinery for any permanent result:

3d,—of Continuance clauses and Suspension clauses.

This simple, and, but for its constant neglect, seemingly obvious plan, of separating Transitory from Permanent matter, would certainly reduce the amount of statutory matter to be permanently consolidated to very much less than one tenth of the statute law in force at any one time, and would greatly improve the form of both. Indeed the transitory, especially the instrumental part of our law, is susceptible of great and systematic improvement, which it would probably receive very rapidly, if it were, in the way proposed, kept separate, and thus became the subject of a more definite and distinct consideration, and of a more perfect division of labour. However, whether improved or not, it is a matter, cumbrous and troublesome as it is, of the utmost insignificance, in comparison with the small but substantial and invaluable matter of our permanent law.

—improvement of Transitory forms by 'Consolidated Clauses Acts.'

(108.) It is scarcely within the scope of these papers or of our Commission to consider in great detail the subject of Transitory Instrumental provisions, but one remark is important. It is that these being required very frequently, in almost identical terms, for particular occasions, they appear incessantly repeated in the Statute Book. In this they are unlike the General Permanent Law, with which this Commission has to deal, which rarely if ever affords a just occasion for two enactments in the same terms. It results from this fact that this Transitory Instrumental Law, especially as regards Private Acts, is very conveniently dealt with by means of such forms as those known as 'the Consolidated Clauses Acts,' and is susceptible of great practical and formal improvement in that way, and of great benefit, by the extension of jurisprudential and judicial results to all the many similar cases connected by means of one and the same identical form.

Consolidation of permanent laws; method and expression;

(109.) Leaving, however, these Transitory matters aside, to participate, it may be, in the benefit of any improvement to be effected in the expression and form and operation of the Permanent law, and confining our expressions henceforth to the latter, it is to be observed, that all the principles of arrangement and expression propounded in relation to the Digestion of the law (48-93) will apply to the original expression of that which it may be determined to Consolidate, and that when the requisite selection of matter to be consolidated has been made by the use of that more practical and political judgment required for its safe performance (98-99) the ministerial duty of arranging and expressing the matter falls again upon the compiler, and he who has prepared the Digest from the old law will equally well or equally ill prepare a Consolidation from that digest, and from his practical instructions. As to so much of the old law as is to be retained and re-enacted unchanged, its expression in the Digest will be its expression in the Consolidated Law, and it will only be the new matter which will involve a new labour to the draftsman.

subdivisions;

(110.) As no Consolidation will ever be final while men's circumstances change,—as it is most important, even for the retention of what is best, to facilitate its adaptation to the change of views of those who are to use it,—and as the best is subjected to danger by indissoluble connexion with what is bad,—it is most desirable, in every point of view, that consolidation should be so effected as to be most easily susceptible of every change which the legislature may from time to time desire to effect; that it should not be an obstacle, as solemn codes have often been, to the infusion of better principles or more convenient practices; but that, on the contrary, it should, if possible, be made a positive facilitation to every act of subsequent legislation.

minute articles,—

Nothing would more facilitate the minutest amendments of a law than its original expression in the minutest possible articles; for a minute change would disturb but a minute article, not dislocate a system; a larger change would be more likely to correspond definitely with a definite number of such articles, and their amendment or excision would take place with a certainty and accuracy of effect in proportion to their original logical minuteness of subdivision.

It is scarcely a less recommendation of a minute division of the law by articles, that it would compulse the draftsman into both condensed and lucid expression; and, as quie-

quid melius spectatur in minimis, the difficulty of reading and understanding the law, even by the learned, but most of all by the unlearned, would in a connected order be reduced nearly in the proportion of the succinctness of the individual articles.

parliamentary convenience;

(111.) It is not forgotten, that the present mode of passing bills in parliament is unfavorable to this suggestion, if the numbered articles are to be passed into law as if they were distinct clauses; but even supposing that they must be so passed, and that the form would cause an increase of trouble and delay in the passing of the law, the objection would scarcely be admissible, inasmuch as the law is not to be accommodated to parliament, the instrument of its preparation, but parliament to the law, for the sake of which it alone exists. But it is submitted that the objection does not exist, or is easily removable; for nothing would be easier than to treat as one clause any number of articles connected by one common consideration and heading, as a section, chapter, or otherwise. The mode of subdividing acts of parliament, recommended some years since by Mr. Symonds, and since frequently adopted in consolidated and other acts, forms a perfect precedent for general practice in this respect.

avoidance of References and Adoptions;

(112.) But although it is very useful thus to subdivide an Act into minute articles, it is on the other hand most pernicious to subdivide and disperse the parts of one Subject in different Acts. Nothing contributes so effectually to the due composition of all its parts, as the presence to the mind of the legislator and the draftsman of the whole of the connected matter. Nothing conduces in an equal degree to simplicity and clearness and compactness as the consideration and expression at the same time of all that is substantially, incidentally, or logically connected. No one thing—perhaps not all influences together—has produced so much confusion in the law as the practice of scattered legislation, of references, adoptions, and their consequences, citations, preambles, non obstante clauses, and the like incumbrances.

the rule;

It is of the first importance to simple, clear, and effective Consolidation that all that is incidental to any one subject be included in one Act. In the General and Permanent law no just occasion exists for two identical provisions; no just occasion for an adoption by reference; no admissible use of such forms as "the Consolidated Clauses Acts," applicable to Transitory and Private and Local legislation. The rule for effectual consolidation is to disregard any temptation to shorten any Act by the device of Reference or Adoption,—to include in each Act frankly all that is logically part of its subject; in short, in each Act to include one subject, the whole of that subject, and nothing but that subject.

consolidation of matter in the Digest of Poor Laws.

(113.) Because of the necessity for a practical determination of the matter to be consolidated, in which a discretion must be used beyond that of the mere compiler or draftsman, I have, being unassisted by the requisite instructions, abstained from preparing an Appendix to this paper, to exhibit the effect of consolidation upon the vast mass of incongruous matter contained in the Digest of the Poor Law appended to Paper II. Such a consolidation, framed by myself, without official authority, would be an unauthorized and almost impertinent suggestion of great changes, which, if to be propounded at all, it is incumbent upon those to propound who are most responsible for the administration and sustained efficiency of that law.

But I may, perhaps, be permitted to say, after many years' experience and practice in analogous operations, that I am confident that the most efficient consolidation of that mass of law would not exceed in quantity of matter one twentieth part of the mass of the Digest of Poor Laws, and that it would incomparably surpass that matter in clearness and completeness of expression.

Suggestion of fit matters for experiment.

(114.) Nor is it by any means necessary that subjects so comprehensive, and involving so considerable an exertion of practical and political discretion, should be

chosen for the subjects of consolidation; not only does a comprehensive subject involve a larger amount of labour and a greater exertion of ability in its digestion, but it necessarily includes more subjects which will give occasion to parliamentary and other discussion, and so in both ways retard the progress of the process.

It is no doubt greatly conducive to logical consistency to take into view, and subject to one treatment, the largest possible aggregate of analogous or connected subjects; but logical consistency, however desirable, is not a prime object of legislation, and is obtained too dearly, when practical, specific, individual adaptation of the law to the circumstances, —when particular fitness,—is sacrificed to formal simplicity. It is neither desirable, nor, if it were desirable, would men be prepared to submit to it, that the law should be systematized by any artificial or logical process, or by any other than that natural organic process by which men discover, apply, and assimilate the legal provisions most fit for each case, in which process they are incessantly developing the application of every useful rule to all the variety of cases to which it may be practically applicable. It is this inductive development of practical good sense, always, consciously or unconsciously, consistent with real practical logic, and the only true method available consistently with a due regard to all material interests, that generates and developes, by a process more sure and true than any speculative logic, the greatest amount and unity of system of which this multiform and versatile subject matter is susceptible. It is to this natural growth and development of the law that the Consolidator is to afford his services; he is not to cramp the growth of practical intelligence by his formal and systematic preconceptions; he is to afford on every occasion his assistance in bringing together in the simplest form and the simplest possible expression whatever relates to a given subject in hand, and to apply to it whatever practical processes the legislature may determine.

And it matters not at all how small, how limited, these subjects may be. The elements, whatever they be, with which legislation can deal, have, as shown in the previous paper, a certain indissoluble relation to each other, and one order alone in which they can be logically treated, and this method is as applicable to the smallest fragment of the law, to a single phrase in legislation, as to the entire body of the law. Every separate fragment would have to be treated in the same way; and when any number of fragments connected by their subject matter have been so consolidated at different times and by different hands, their simple re-enactment under one head would be a consolidation of the whole.

It results that consolidation can be most easily effected and proceed with most rapid effect, and with the most certain prospect of eventual assimilation and consistency, if it be undertaken in the smallest possible parts.

And in order not to incur danger of disturbing portions of the law already sufficiently accessible and intelligible, it might be well to make a commencement chiefly on those subjects which by their acknowledged unsatisfactory state the most require a systematic and ameliorative treatment. All that is necessary is for those who are engaged in the process to have a common understanding of the nature and practical application of the process.

(115.) Still the work of consolidation would not be done in any case, unless the subject taken in hand were sufficiently distinct and complete of itself, had sufficient unity of character to allow of its being treated as a whole, to allow of the cotemporaneous repeal of the Statute Law previously occupying the ground which the Consolidated Law is to occupy, and to dispense absolutely with all citation and reference to other statutory matter.* Unless this be done, the multiplicity, cumbrousness, intricacy, and confusion now justly complained of, and which it is the object of consolidation to remove, will only be commenced afresh and perpetuated.

* See remarks in Paper I. on the difficulty of identifying statutory matter by means of citations and references.

Supposed dangers of consolidation;

(116.) It is hoped that the preceding remarks will have removed some objections which have been expressed as to the danger to the consistency and operation of the existing law, which, as is feared, would be involved in the effects of Consolidation.

to the Common Law;

The first danger apprehended, that of interfering by surprise or mischance with the Common Law, may be wholly avoided by the instruction to the digestor (see Appendix to Paper II.) to adhere to the very terms of the Statute Law to be consolidated. If this rule be observed, any disparity between the terms of the Digest and those of the Consolidating Act would always display any encroachments or contractions in the latter, and indicate the extent to which the field of the Common Law is invaded or enlarged by its operation.

Indeed the more probable operation of the process of Consolidation would, inasmuch as it would chiefly tend to remove a vast mass of anomalous, heterogeneous encroachments of the Statute Law made in various times on the Common Law, and still by their position in the statute book blockading and preventing the developement of the Common Law,—the operation would, I say, tend rather to enlarge and disencumber the field of the Common Law than to encroach upon it.

to judicial interpretation.

(117.) But another objection felt is, that by Consolidation we might lose the advantage of those beneficial interpretations and applications which the courts of law have put from time to time on the existing Statute Law.

It is wholly a matter of choice, which may be adopted or rejected, whether a Consolidation shall operate so or not. If the legislature please to retain the exact combined effect of an old statute, and its existing interpretations, there is nothing more to be done than to re-enact the operative parts in ipsissimis verbis of the old statute, and all the interpretation which has hitherto been made or would in the course of time have been made on the old statute will, ipso facto, as to the past interpretation, apply to those words in the re-enactment, and the prospective interpretation, by all analogy, upon the same data, would itself be the same.

(118.) It is true, however, that a large quantity of judicial decision upon the statutes made merely to remove the conflict of parts would become useless, and very beneficially become useless, so soon as those conflicting parts by Consolidation were made consistent.

And all that mass of construction which has turned upon the question whether and how far a later enactment controls, enlarges, limits, or supersedes an earlier one, would also undoubtedly become useless so soon as the existing effect of the later and the earlier were brought into synchronous operation in one act.

And so of all those constructions as to the question whether two or more enactments be co-ordinate, or one subordinate to another,—which would become useless and inoperative so soon as the relation of generality or speciality was shown by the places occupied by the respective provisions in one consolidated enactment.

As to all this mass of judicial construction, it is not law, it is one almost unmitigated evil, only rendered necessary and endurable by the fear of one still greater. It is but the cobbling of statutory provisions not originally made to fit their subject matter, and not made so as to hold together, and few happier results would flow from consolidation than such a consistent reformation of any part of the law as would at once abolish all the constructions that have ever been applied to it, and all future construction other than the plain reading of consistent terms. This is a result too perfect to be hoped for, but an approach to it in any degree is not to be held forth as a subject of alarm to us.

August 1853. GEORGE COODE.

IV.—ON SUBSEQUENT LEGISLATION, WITH A VIEW TO PRESERVE THE ORDER AND CONSISTENCY OF THE LAW AFTER CONSOLIDATION.

Consolidation to facilitate alteration.

(119.) Consolidation would be a serious evil if its operation were to diminish in any degree the plastic quality of the law under the hand of the legislature. Permanency of institution is desirable only in proportion as the institution is in use found beneficial. It is an effect to be secured, not by impediment or obstruction, but by the approval and the free choice of the community. Consolidation is not desirable in the state of English society, to give stability to the law. It is desirable as a stage in amendment, and as a facilitation of all future amendment. The present cumbrous and confused state of the law is the greatest impediment to amendment, and if permanency alone were the thing desired, it could by no means be more certainly secured than by keeping the law in its present state of intractable disorder.

Doubtless, by consolidation is meant a considerable step in itself in the way of improvement, of improved form, of improved expression, and of improved operation; but it would be the height of presumption to suppose that we are entitled at this time to invest the law with fixed form, or that we are capable of achieving it; and, however good the form in which we could now mould it, that form would be too dearly purchased by the surrender of the present unlimited liberty of change. Power to move, though in confusion, is preferable to a cataleptic stability in the most admired position.

It is true that there have been and are still many communities in such a political or social state as to derive great benefit from a fixed form of law, and the more in the proportion to its unalterable character. In a state of barbarism or anarchy, where the people are incapable of intelligent legislation, an immutable and simple code has often proved a means of elevation and civilization to the community. In a despotism it is a great protection to have a law "that changes not" at the caprice of a despot, and may serve as some barrier to his excesses; but amongst free, intelligent, civilizing men the law that does not keep progress with their intelligence, and bear accommodation to their changing wants, is, in proportion to its rigidity, a tyranny.

Consolidation of the law of England then is inadmissible but on conditions consistent with the utmost liberty of alteration.

(120.) It is assumed in the following observations that Consolidation of the law is to be attempted; and the purpose of these remarks is to consider how we may retain with certainty the whole of the benefit involved in consolidation, and still at the same time realize the utmost liberty, latitude, and facility of Amendment at the changing pleasure of the legislature.

For there is an equal necessity of considering the subject in both these points of view. When once a body of law is well constructed there is a reluctance to disturb it; to introduce confusion into its order, and involvment into its expression. On the other hand, there is a still stronger tendency, as is shown in the history of all our partial consolidations, to dissolidate the law by amendments, and to create anew the confusion and disorder to escape from which was the object of the consolidation.*

Proposal;

(121.) The course which will be here recommended is one which has a more general application, applying with as much effect to all amendments of the law at all times as to those which are to be undertaken after consolidation. It is simply this:—

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* . . . . . .

I. NEVER TO AMEND THE LAW BY DISTINCT AND ISOLATED AMENDMENTS,—

—BUT ALWAYS TO RE-ENACT WHATEVER LAW IS TO BE AMENDED WITH THE AMENDMENTS INCLUDED IN THEIR PROPER PLACE IN THAT LAW.

II. IN EVERY SUCH CASE OF RE-ENACTMENT, TO REPEAL BY EXPLICIT REFERENCE SO MUCH OF THE PREVIOUS LAW AS IS THUS RE-ENACTED (101, 102.)

III. TO KEEP IN DISTINCT CLAUSES,

—'THE PERMANENT MATTER,'

—'THE TRANSITORY MATTER,' AND

—'THE REPEALS;' (103-107.)

—AND AT THE LAST STAGE OF THE BILL PRECEDING THE ROYAL ASSENT TO DIVIDE THE BILL, IF IT CONTAIN MORE THAN ONE OF THESE KINDS OF MATTER, INTO AS MANY PARTS, TO BE PASSED AS SO MANY DISTINCT ACTS.

in Operation,— (122.) It is by distinct amendments, insulated from previous amendments and from the original law, that we have arrived at the present confusion. It is manifest that if the

—of the first rule,— first rule here recommended had been always observed we could never have had two statutes in force at one time upon the same matter.

It is almost equally certain, that if every amendment were required to be interpolated into and assimilated with the matter it affects to amend both must be made to have at least an apparent congruity. Incompatibility within the limits of the bill would be too striking to pass unchallenged, and correct legal composition, as to order and matter, and agreement of expression, would be to a great extent secured.

It may be objected,—that this re-enactment of the old and settled law would expose it more frequently than now to discussion and unsettlement. To this it is answered, that any immunity of the law from unsettlement which depends upon its being protected from discussion is an immunity held by concealment, and that a law which will not bear discussion is scarcely entitled to be secure from change. But the assumption itself is false, that the original law would be placed in jeopardy the more by being reproduced on every occasion of amendment, for it is incomparably more easy to effect changes intentional and unintentional under the name of amendments in a law which is not produced than in one that is fully displayed. It is submitted, that amendments,—which under such a rule must manifestly appear to be consistent with the law, would rather tend to establish and confirm what is useful in the law than to unsettle it.

—of the second rule, The second rule,—that all the law thus amended should be explicity repealed,—tends the same way, to concentrate the responsibility for the amendment, by making the real extent of the operation manifest; but it has the further effect sought by all attempts at consolidation, of preventing the accumulation of incongruous laws of different ages.

An immediate effect of the observance of these two rules would be to get rid also of recitals, and references to co-existent laws.*

—of the third rule,— The purpose and effect of the third rule has been described in the preceding paper. (103-107.) It would keep the Permanent substantive matter unencumbered by transitory and effete matter so long as it remained in operation. The Transitory matter, in an act by itself, would expire when its temporary purpose was effected, and would disappear from the Statute Book. The Repealing act, like the laws it repealed, would no more obtrude itself upon attention.

—applicable to all Amendments,— (123.) If these recommendations be justified by any prospective utility, they are quite as applicable to every measure, to every amendment, proposed before consolidation, as to any amendment subsequent to consolidation.

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* See paper 1.

Indeed this process would of itself be a sure and gradual process of consolidation, more certain of attaining the ultimate result of one consistent body of law than any more extensive consolidation professedly and formally prepared as such. —and make every occasional Amendment a Consolidation.

At all events, the re-enactment of many isolated portions of the old law, with their amendments interpolated, would certainly prepare the way for the combination of many such fragments under more comprehensive heads. They would inevitably coalesce, when brought to sufficient consistency and conformity, into more extensive consolidations, and with this great advantage, that the partial consolidations would each have undergone the test of practical experience, and perhaps of successive amendments, before it came to be incorporated into the body of a more extensive consolidation.

(124.) Assuming now, that either by this gradual development of uniformity and consistency, or by a distinct and professed process, a Consolidation of a body of law were once effected, the further consideration arises, how, in this more extended shape, the law may be amended with the utmost facility, without being dissolidated. Special application to consolidation,—

Reasons have already been given for the subdivision of the matter of a consolidated act into the minutest possible articles (110). Such minute subdivision is indispensable to the utmost mobility and facility of change in its elements. —requisites;—

A consolidated law, consisting of numerous articles, frequently as it might require amendment, would rarely, where the law itself were worth retaining, require amendment throughout the whole or any very large portion of the series of its articles.

It would be inconvenient, in a case where one or a few articles were to be amended, to reprint the whole of the consolidated act, which, being easily accessible in one chapter, could be easily referred to for comparison with any proposed amendment.

(125.) Every Amendment of a consolidated act must consist of one or more of three distinguishable things :—1st, of the Abrogation of one or more of its articles; 2dly of the Amendment of one or more of its articles; or, 3dly, of New Matter to be interpolated before, between, or after its articles. —process of passing Amendments;—

The Amendment, when effected, would be, in the 1st case, the simple re-enactment of the consolidated law, with the abrogated articles omitted; in the 2d case, with the amended articles in their old place as amended; and, in the 3d case, with the new articles inserted in their proper places and order.

To effect this it is suggested that the following would be a safe and convenient course to adopt in passing the amendments; namely;

That the Amending Bill should, after the fashion of notices of amendments on bills in parliament, the practice of which is well known, and probably not susceptible of much improvement for these purposes, run thus,—

" A bill to amend 'the act for relief of the poor,' &c.
" by omitting articles 9, 10, 21, 56;
" and by substituting for article 4 the following two articles; namely, &c.
" and by inserting after article 7 the following two articles; namely, &c.
" and by inserting after article 96 the following three articles; namely, &c.
" and to re-enact the said Act as hereby amended."

A bill in such form and terms could be discussed and disposed of with as much ease as a notice of amendment upon a bill, now framed in a similar manner, is discussed and disposed of.

(126.) A bill being passed in this form, the next stage is to give effect to it by incorporating its provisions into the Consolidated Act. This, it is proposed, should take place with regard to all consolidated acts under the provisions of a general act of parliament passed for the purpose, and to this effect: "That whenever an act is passed to amend a process of incorporation of Amendments,—and of Promulgation.

" consolidated act, either by the omission of articles therein, or by the amendment of " articles therein, or by the insertion therein of additional articles, such amendments " shall take effect accordingly,

" and that the said consolidated act shall thereupon be engrossed, enrolled, and pub- " lished and printed, with such articles omitted, amended, or added, as the case may be,

" and that the numbering of all chapters, sections, or articles therein shall proceed " continuously in the act so amended from number one to the last number, as the case " may require."

But until some successful experiments have been made, showing the use of this more general provision, it might be more desirable to provide for the operation of re-enactment and promulgation by a clause in each several Act.

Effects

(127.) The effect will be, that from the time of Consolidation no more Repeals will appear upon the Statute Book, repeals being effected by simple omission of articles; no more Amending Acts accumulated, such amendments being incorporated in the one subsisting consolidated act; Recitals and References would cease, and the law receive all amendment, expansion, and development, without a loss of its unity and cohesion.

Suggested mode of experiment.

(128.) If this course of proceeding were thought worthy of a trial, which might be made with some of the first amendments required upon some of the least important subjects, where failure would be of the less consequence, and remedy the more easy, there would still remain a few details to be arranged to give full and safe effect to the plan. One such detail would be a clause in the general act before mentioned, or a standing form of clause in each amending act, to continue the operation of the consolidated act as before amendment to all matters requiring it. But it would probably be a waste of time at present to develop farther the details of a plan which may possibly not be thought worth the experiment.

August 1853. GEORGE COODE.

Minute by Mr. Anstey.

For the results of the labours in which I have been personally engaged, I beg to refer to the statistical paper, presented by Mr. Rogers, jointly with myself. It only remains for me to submit some observations on the principles by which I have endeavoured to guide myself in my share of the undertaking. They shall be of the merest practical kind; such, indeed, as the business before us, which is strictly practical, would seem to require.

On the 31st March last we were honoured with the instructions of the Lord Chancellor, as to the plan which, in his Lordship's opinion, ought to be followed in the proposed work of the consolidation of the statutes. I have only to express my hearty wish to carry that plan into practice;—and this without attempting to discuss its details,—an attempt which must engage me in interminable disquisitions on the science to which they belong, with the certainty of finding myself at every step anticipated, and often greatly excelled, by the multitude of jurists who, with more or less ability, have been handling the subject ever since the days of Lord Bacon of Verulam.

I find it the less necessary to engage in such disquisitions, inasmuch as I have hitherto endeavoured to carry out that plan by confining my part in the common labour to the work noticed by his Lordship as the essential preliminary to consolidation in any shape. I mean the collection and compilation into one chronological list of the whole of those Acts of Parliament which can be certainly predicated to be no longer in use. That category I found necessarily to include:—1. expired statutes; 2. obsolete statutes; 3. statutes expressly repealed; 4. statutes virtually repealed; and 5. statutes in force against the intention of the legislature.

1. A statute may be said to be expired, not only where,—a term certain having been expressly limited for the period of its operation,—it has been afterwards suffered to drop, as in the case of the annual Mutiny and Indemnity Acts, but also where,—as in the case of the Duke of Clarence's Annuity Act, or the regnal acts for the leasing of lands of the Duchy of Cornwall,—the demise of the Crown, or the deaths of parties, have determined the rights and powers created or conferred by the statute.

2. An obsolete statute differs from an expired statute in point of form thus far, that it is, nominally, in force, although, practically, incapable of being enforced, by reason of a cessation or entire change in the circumstances which led to the enactment. Of such, the unrepealed statutes of liveries and badges, the labour and wages' acts, and the laws relating to "deraignment" of religious persons, and those relating to "beaupleader," "protections," "aide prier," and the like traces of a now forgotten jurisprudence, are familiar instances.

3. Where a repealed statute has been accurately described in the repealing act, by reference to the regnal year and chapter, or to the regnal year and title of the first, a very slight inaccuracy in such reference may entirely defeat the repeal.

4. It were much to be desired that the "virtual repeal" of a statute should in every case be accompanied with words expressly and accurately referring to it, and enacting its repeal. Such, however, has not been the practice of the Legislature. The cumbrous, vague, and indolent provision for the abrogation of "all "acts and parts of acts repugnant to or inconsistent with this act," has been too frequently allowed to usurp the place of a carefully prepared and thoroughly complete list of the enactments in question,—and, in many cases, even that precaution has been neglected, and the inquirer has been left to infer from the silence of Parliament, as best he may, the intention to repeal or to maintain

them. Thus the Foreign Enlistment Act (59 Geo. 3. c. 69.), which, be it observed, purports to consolidate as well as to amend "the laws in force for "preventing the same," omits all reference to the 3 Jac. 1. c. 4. (s. 18.), an act *in pari materiâ* with the former, because passed for the very purpose of preventing the subjects of this realm from "serving any foreign prince, state, "or potentate," without the sanction of this Crown, in the office of "captain, "lieutenant, or any other place, charge, or office in camp, army, or company "of soldiers, or conductor of soldiers." By the act of James 1. the offence is declared to be a felony;—by that of George 3. it is made a simple misdemeanor. So far the later act would appear to have effected the virtual repeal of the more ancient enactment. But the act of George 3. "applies to all enlist-"ments without licence, such being the mischief it was intended to prevent;"—"the mischief against which the act of James 1. was directed was the growth "of popery;"*—and "it is a well known rule," remarks Lord Brougham,† "that generally speaking, where anything is established by statutory provisions, "the enactment of a new provision must clearly indicate an intention to abrogate "the old, else both will be understood to stand together if they may." The Legislature accordingly felt the necessity at a later period of doing, what it had perhaps intended, but certainly failed to do at the time of the passing of the Foreign Enlistment Act, and in the reign of her present Majesty, the express repeal of the 3 Jac. 1. c. 4. was at length effected by the 9 & 10 Vict. c. 59., better known as the Religious Opinions' Act.

5. This last division is comprehensive. It embraces, first, all the statutes which have been left unrepealed, under an erroneous notion of their being expired or obsolete;—secondly, all those which have been similarly neglected under an opinion equally erroneous of their having been virtually repealed by later enactments;—thirdly, all those which have escaped the operation of statutes passed for the express purpose of repealing them, through some vital error in the description;—and, fourthly, all those which, after being once effectually repealed, have been unintentionally revived by a hasty and inconsiderate repeal of the repealing act. It will be found that nearly all the merely obsolete statutes belong to this category. They are obsolete, simply because the Legislature has not had its attention called to the fact of their being technically in force, or capable of being put in force. Of the errors in point of style and enumeration, with which modern enactments abound, and the consequences which may follow in their train, some notion may be formed from the following examples, gleaned from a multitude.

A series of mischievous statutes for the restraint and regulation of apparel, were repealed by the 24 Hen. 8. c. 13., and other sumptuary provisions of a somewhat less severe character enacted in their room. With the progress of enlightenment, the impolicy of the restraint became manifest, and the statute of Henry was in its turn repealed. But the repealing act (1 Jac. 1. c. 25.) contained no reservation as to the repeal of older enactments, and the vagueness of the language leaves it more than doubtful whether the intention to re-enact their repeal was effectual. They continue, therefore, to be classed amongst the obsolete statutes. A more notable case is that of the ancient distinction as to claim or benefit of clergy, introduced by the statute of Westminster, c. 2., as extended by the 4 Hen. 7. c. 13., between lay clerks, and clerks in orders,—enormously to the advantage of the latter. The distinction was abolished by the 28 Hen. 8. c. 1. and 32 Hen. 8. c. 3.; but Lord Hobart, Lord Hale, and Sir William Blackstone held‡ that it had been virtually restored by the 1 Edw. 6. c. 12., although such appears to have been very far from the intention of its framers. The 6 Geo. 4. c. 25. was passed for the purpose, amongst others, of "placing clerks in orders on the same footing with other persons as to "felonies, and for limiting the effect of the benefit of clergy," and the unintentionally repealed statute of the 28 Hen. 8. c. 1. was accordingly revived by that enactment; but the fact that the 32 Hen. 8. c. 3. had been likewise repealed by the act of Edward was perhaps overlooked. However, by the 7 & 8 Geo. 4. c. 28. benefit of clergy itself was abolished, and it might have been reasonably supposed that thereby the much desired end was at length accomplished. But

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* Guide to Laws affecting Roman Catholics, p. 52.
† Escott v. Mastin, Pr. C. 2 July 1842, 6 Jurist, 769.
‡ Hob. 294; 2 Hale, P. C. 375; 4 Comm. c. 28.

again it seems that the unskilfulness of the execution had in some measure defeated the vigour of the design, and we learn from the preamble of "An Act to remove "doubts as to the liability of Lords and Peers of Parliament to punishment in "certain cases of felony," (4 & 5 Vict. c. 22.,) that down to the end of the 4th year of her present Majesty, "doubts continued to be entertained, whether "notwithstanding the 7 & 8 Geo. 4. c. 28., so much of the 1 Edw. 6. c. 12.,—as "enacts that in cases of felony a Lord or Lords of Parliament shall, upon his "or their request or prayer, though he cannot read, be adjudged, deemed, "taken, and used for the first time only as a clerk convict, and shall be in case "of a clerk convict which may make purgation,—might not, for some purposes, "still remain in force." Accordingly the recited portion of the statute of Edward was once more repealed by that of Victoria, so far at least as to put "Lords of "Parliament and Peers of this realm, having place and voice in Parliament," on the same broad footing of responsibility to law with the rest of their fellow-subjects in like case.

But it is in the acts relating to fiscal subjects that errors of magnitude appear chiefly to abound. The 5 Geo. 4. c. 104., for example, was designed to enable the averment of orders for prosecution to be sufficient proof of such orders having been made by the Board of Customs or Excise. The necessity for such orders being made at all was created by the 56 Geo. 3. c. 104. s. 15. It is recited correctly enough by its title, but misrecited as to date, which is quoted as of "the 45th year of his Majesty," no such act being in fact passed in that year. Another glaring instance is to be found in the Customs' Laws' Repeal Act (6 Geo. 4. c. 105). The object of that enactment was to clear the way to the then proposed consolidation of what Customs' laws were meant to be retained, by ridding the statute book for ever of the whole body of the cumbrous absurdities of our old fiscal legislation. One of those mischievous enactments was the 7 Jac. 1. c. 14., intituled "An Act for the reviving of part of a former act made "in the fourth year of King Edward the Fourth, that no stranger or alien should "buy any English horns unwrought; and that the Wardens of the Horners of "the city of London for the time being should have power to search all man-"ner of wares appertaining to their mystery in London and four-and-twenty "miles on every side of it." In the repealing act it is simply described as "An Act passed in the seventh year of the reign of King James the *Second*, "enacting that no person or persons whatsoever shall send English horns "unwrought over the sea." James the Second did not reign seven years, neither was there passed throughout his reign a single act having the smallest reference to such a prohibition. There are many such instances; indeed, so many as to make the fiscal laws of this realm a frightful example illustrating in a particular kind the generic vices of its legislation at large. The revision of them is most imperatively and immediately called for; and I think that one of the first and most valuable of the uses to which the present commission might be applied would be the consolidation into one statute of the entire body of customs and excise laws, whether relating to duties, to regulation, or to management.

The result of the investigation which in obedience to the wise suggestion of the Lord Chancellor I have prosecuted to its close, has more than ever convinced me of the necessity of making the expurgation of the "dead letter" from the statute book the first step to a revision and an improved arrangement of the rest. The joint statistical paper of Mr. Rogers and myself, to which I have already referred, will show to what dimensions the volume of the matter for consolidation will be thereby diminished; and there will be this additional advantage, that even should the work unhappily be allowed to proceed no further, a great step will have been gained and a great boon conferred upon the profession and the people, in the publication, under legislative sanction, of a complete chronological list of the enactments no longer to be considered in the statute book.

It is clear that, even although all the indexes to the expressly repealed statutes —for none of them deal with statutes whose repeal was otherwise than express— were to be examined, and their contents digested into one complete and accurate list, we should be little aided in the endeavour to inform ourselves of the effective state of the present statute book. But no such list exists; and the series of repealing statutes are ill qualified to supply the want of it. Those statutes enumerate, each in its turn, the various laws with which it means to deal; but they are entirely unconnected with one another, and furnish no clue for reference; there is even no order of enumeration observed in each statute. In one

of the customs' and navigation laws' repealing acts (3 Geo. 4. c. 41.) the perplexed inquirer is again and again sent forward from the Plantagenet line to the House of Brunswick, and backward from Brunswick to Plantagenet; and in the "Act for abolishing the punishment of death in certain cases," (7 W. 4. & 1 Vict. c. 91.)—the last of the acts which according to the plan of distribution belong to my portion of the work—the repeal of a series of enactments from the 25th year of George 2. to the 3d and 4th years of William 4. is followed by a clause for the total repeal of an obsolete statute of the 1 & 2 James 1. c. 31., intituled "An Act for the charitable relief and ordering of persons infected with "the plague."

Hence although the inherent difficulties of the task were not of themselves very arduous, they were greatly aggravated by the faulty and slovenly course of our sometime legislation. Some of these accidental causes of difficulty have been specified, but there are many more, and, amongst them, the one which I have found most worthy of notice is the confused arrangement of the statute book.

The three existing divisions of public general, public local and personal, and private acts have been long recognized in theory but not so much in the practice. It is hard to understand why the Ten London, Shrewsbury, and Holyhead road acts, session after session, have figured amongst the public general statutes of the realm, whilst all their fellows have been relegated to their proper place at the end of the volume amongst the local acts. The preference shown to the act for removing the Hay-Market from Westminster to St. Pancras parish (Public General Acts 11 Geo. 4. & 1 W. 4. c. 14.) over the City of London Police and Small Debts' Acts (Local Acts 2 & 3 Vict. c. xciv. and 15 & 16 Vict. c. lxxvii.) is equally unaccountable.

It is difficult to allege any plausible reason for such refined distinctions, and it is certain that they add very largely to the embarrassments which beset the proposed consolidation of the statutes, for it entails another and a still more formidable inconvenience.

The same caprice which presides over the classification of statutes appears also to dictate the selection and combination of their component elements. He will much deceive himself who shall conclude from the title or even from the preamble of a professedly local or personal act, that it does not somewhere deviate into the domain of imperial legislation, and deserve to be ranked in the number of public general statutes. A few from among many instances will best illustrate my meaning.

The first legislative bulwark of one of the most valued of the liberties and privileges of parliament was the 4 Hen. 8. c. 8., a personal act, intituled "Pro "Ricardo Strode." But the language of the framers carried the enactment beyond the immediate occasion, and it has always taken its place amongst the public general statutes.

The 52 Geo. 3. c. 44. is intituled "An Act for the erection of a Penitentiary "House within the city of London and county of Middlesex, and for making "compensation to Jeremy Bentham, Esquire, for the nonperformance of an "agreement between the said Jeremy Bentham and the Lords Commissioners "of His Majesty's Treasury respecting the custody and maintenance of con-"victs." An enactment so described would seem to be properly classed amongst the local and personal acts; but a closer inspection will show that it contains 47 clauses, exclusive of the usual alteration clause at the end, and that although the first 46 of these are certainly confined to the proper purpose of the act, the 47th is a general enactment, and makes no mention of Bentham or of Millbank. It enacts, "that, in all cases where any court or courts "shall think fit to sentence any person or persons convicted before such court "or courts of felony without benefit of clergy, to imprisonment as or for the "punishment, or part of the punishment, such court or courts may, if "they shall think fit so to do, moreover direct that the person or persons "so convicted shall, during such imprisonment, be kept to hard labour." This last clause was repealed in the ensuing session by the 53 Geo. 3. c. 162., intituled "An Act to repeal a certain provision respecting persons convicted of "felony without benefit of clergy, contained in an act made in the 52d year of "the reign of his present Majesty, for the erection of a Penitentiary House "for the confinement of persons convicted within the city of London and "county of Middlesex, and for making other provisions in lieu thereof." The

residue of the act continued in force until its repeal in 1843 by the 6 & 7 Vict. c. 26., intituled "An Act for regulating the prison at Millbank."

Another instance, but of a converse kind, is presented by the statute of the 22 & 23 Car. 1. c. 1., bearing the general title of "An Act to prevent malicious "maiming and wounding," but better known in the profession as "the Coventry "Act;" the immediate object being to provide for the detection and punishment of the offenders who had maimed a certain Sir John Coventry. To that object by far the greater portion of the act is expressly directed, but the 6th and 7th clauses have nevertheless been always treated amongst lawyers as general and perpetual enactments; they provide "that if any person or per- "sons from and after the four-and-twentieth day of June, which shall be in the "year of our Lord 1671, on purpose, and of malice forethought, and by lying "in wait, shall unlawfully cut out or disable the tongue, put out an eye, slit the "nose, cut off a nose or lip, or cut off or disable any limb or member of any "subject of his Majesty, with intention in so doing to maim or disfigure in "any the manners before mentioned such his Majesty's subject," such offender or offenders shall on conviction suffer the penalty of death. These clauses accordingly continued in force until repealed by the express enactment of the 9 Geo. 4. c. 31., "An Act for consolidating and amending the statutes in Eng- "land relative to offences against the person."

I do not dwell on these circumstances in order to magnify the difficulties of the task of compilation suggested by the Lord Chancellor, but to state them.

It was the opinion of Mr. Bellenden Ker that the preparation of the expurgatory list should be undertaken by Mr. Rogers and myself. In undertaking it, it was agreed between us that "the Statutes of the Realm," published by the Commissioners of Public Records,—and referred to by the Lord Chancellor's minute,—should be our text-book down to the accession of the house of Hanover, at which period that valuable collection ceases; and that whatever additional matter could be gleaned from other sources should, as well for that period as for the Hanoverian period, be incorporated with the work. It is now completed. I regret that difficulties, over which we had no control, have prevented its being made so practically useful during the present session of Parliament as Mr. Rogers and myself might have wished. But the lateness of the period, and the volume of the matter, are sufficient reasons why the chronological schedule of expired, obsolete, and repealed statutes has not, even now, assumed the form which, its compilers hope, hereafter will be given to it, of a declaratory and an enacting repealing act.

Difficulties of a somewhat analogous nature have postponed the printing of the schedule in its entire form for the present. This delay, much to be regretted on many accounts, has, to some extent, been met by the publication appended to our joint statistical paper, of such selections from our schedule as serve to give the reader a general idea of the present effective state of the statute-book, according to the several epochs in the history of our legislation, from the Great Charter to the session of 1853.

It is due to Mr. Rogers, as well as to myself, that the portion for which each is severally responsible should be distinctly ascertained. We had arranged the distribution entirely without reference to quantity; but we find on comparing our performance that the distribution has in fact been as nearly as possible an equal one, and that each of us has done about a moiety of the common work.

The whole of the earlier part, beginning with the Great Charter of Henry 3. and ending with the accession of Edward 6., has been completed by me. Mr. Rogers, commencing with the 1st year of Edward 6., has carried the work on to the beginning of the 29th year of Elizabeth; whence, resuming my labours, I continued them to the end of the reign of Queen Anne. All statutes of the reign of George 1., and those of the first 19 years of that of George 2., having been gone through by Mr. Rogers, I took up the series at the 20th year of George 2., and continued them to the end of the 25th year of George 3. From that point to the end of the 59th year of the same reign is the continuous work of Mr. Rogers, with the exception of one session, that of the 39th and 40th years of George 3., for which I am responsible. Re-commencing with the session of the 60th year of George 3. and the 1st year of George 4., I finally close my labours with the session of the 7th year of William 4. and the 1st year of her present Majesty. From that era Mr. Rogers has continued the compilation down to the present session of Parliament.

The work has been performed by me without other help or clue, in the first instance, than the statutes themselves, with which I dealt, afforded. The printed indexes and digests are treacherous guides. Even the excellent index to the post-union statutes, printed in 1841 by order of the House of Lords, is not without its errors; and, moreover, the period to which it is limited was obviously far too recent to have made it, in any case, a very useful auxiliary in the commencement of our labour. I therefore, in every case, abstained from consulting such authorities, until the conclusion of our work should enable us to do so in the only way in which they could be made profitable,—as checks, namely, upon the results obtained by our own independent investigations. Not even the valuable index of Sir Henry Seton (in MS.), with an inspection of which we had been favoured, was suffered to form an exception to this rule. It was dealt with in the same way as the printed digests.

It must not be supposed that when this wholesale expurgation has taken place, the whole of the residuum will have to be treated as subsisting law. There will still remain the repealed, expired, and obsolete parts of acts to be extracted. There will also remain an immense mass of tautology and reiteration to be swept away.

Statutes *in pari materiâ* will be found to consist, for the most part, of vain repetitions, or still vainer paraphrases of older or contemporay enactments; and to a very great extent this must continue to be the case so long as the present confused method of sessional compilation and promulgation shall continue. I am quite alive to the danger of depriving Parliament of the least portion of its present duty,—a duty too often imperfectly performed,—of revising the text of every bill before it leaves either House to receive the concurrence of the other, or the assent of the Sovereign. I do not wish to see the judges of the land again empowered to frame, or even to correct the language of the copy of the act intended for promulgation, in real or feigned conformity with the intentions of the Crown and Parliament, as expressed in the royal "Answer" endorsed upon the "Petition" or "Bill." I do not suppose, indeed, that the whole of the "many inconveniencies which happened to the subject by the ancient form," and strongly depicted by Hale and Coke, and indignantly denounced by the Commons, would in these days be likely to follow, even were that ancient form to be restored without some limitation to guard it against abuse. "Sometimes," they say,* "no statute hath been made, though agreed on;—many things have "been omitted, many things have been added in the statute;—a statute hath "been made, to which the Commons did not assent, and even to which neither "Lords nor Commons assented." Inconveniences of that magnitude are not now likely to occur, but it is well to provide against the possibility of such, and to profit of former experience. Nevertheless, I cannot but think it quite possible to obtain a good revision of the text of every statute, before it receives the royal assent; and this without in any way derogating from the parliamentary privileges of custody and control. A Committee of Public Bills, acting in the House of Lords under the eye of the Lord Chancellor, in the House of Commons under that of the Speaker, will be found quite adequate to the purpose. The advantages which have resulted to the transaction of legislative business of a local or personal kind, from the machinery now employed, to give uniformity and efficiency to what are called Private Bills, I need not pause to enumerate.

Whatever may be thought of a suggestion, which I must not stop to develop as it deserves, this at least will be conceded,—that the sooner a thorough change is made in the present method of amending and re-amending the statutes, the better for the character of the legislation and the simplicity of the law. Can anything be more clumsy, for instance, than the following specimens of the way in which merely clerical errors are commonly set right? I take them from a host of similar unrepealed and subsisting enactments, which nevertheless cannot be expunged from the statute book until the statutes to which they relate shall have been revised and consolidated.

One is the 2 & 3 Vict. c. 50. (s. 3). It runs thus:—

"And whereas an act was passed in the session of Parliament holden in the fourth and fifth 'years of his late Majesty's reign, intituled 'An Act for the more effectually providing for the

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1 Hale, P. C., 394; 3 Inst. 40, 41; 12 Rep. 57; Rot. Parl., 18 Edw. 3. Nos. 32 to 39 3 Ric. 2. No. 3*. 5 Ric. 2. No. 53; 2 Hen. 4. No. 21., &c.

" ' erection of certain bridges in Ireland :' And whereas the said act contains an enactment in the " words following : 'And be it enacted, that the building, rebuilding, repairing, widening, enlarging, " ' or improving of any bridge under the provisions of this act, or of any of the approaches thereto, " ' and the execution of all works relating to the same, shall be carried on, conducted, and managed " ' by and under the control and direction of the commissioners for the time being ; and that all " ' the provisions of the said last-mentioned act shall and may be applied and extended to the " ' several works hereby authorized to be executed, so far as the same may be necessary, and may " ' not be repugnant to or inconsistent with this act :' And whereas the words 'appointed under " ' and acting in execution of an act made in the session of Parliament holden in the first and " ' second years of the reign of his late Majesty, intituled "An Act for the extension and pro- " ' motion of public works in Ireland,"' which were intended to be inserted between the word " ' 'being' and the words 'and that' in the said recited enactment, were inadvertently omitted, " so as to make it doubtful what commissioners were meant by the said enactment : Be it therefore " enacted and declared, that the said recited enactment shall be deemed, construed, and taken to " have such and the same effect, to all intents and purposes, as if the said words 'appointed under " ' and acting in execution of an act made in the session of Parliament holden in the first and " ' second years of the reign of his late Majesty, intituled "An Act for the extension and promotion " ' of public works in Ireland,"' had been originally inserted therein between the word 'being' " and the words 'and that.'"

Another is an entire act, the 6 & 7 W. 4. c. 4., intituled "An Act to amend " an act of the last session for abolishing capital punishments in cases of letter " stealing and sacrilege." It is as follows :—

" Whereas by an act passed in the last session of Parliament, intituled 'An Act for abolishing " ' capital punishments in cases of letter stealing and sacrilege,' the punishment of death was " taken away in cases of letter stealing and sacrilege ; but by reason of a clerical error in copying " the same a doubt may be entertained whether persons guilty of such offences are now by law " liable to any punishment : Be it therefore enacted by the King's most excellent Majesty, by " and with the advice and consent of the Lords spiritual and temporal, and Commons, in this " present Parliament assembled, and by the authority of the same, that the same act shall be read " as if, instead of the words 'in the said act so specified,' the words 'in the said acts so specified' " had been inserted in the said act of the last session ; and that all persons who may hereafter be " duly convicted of any of the offences mentioned in the said act of the last session shall and may " be sentenced, by the court or judge by or before whom such offenders may be tried, to transport- " ation for life or for any term of years not less than seven, or to be imprisoned for any term not " exceeding three years, with or without hard labour, and for any period of solitary confinement " during such imprisonment, at the discretion of such court or judge."

A still more formidable example occurs in the session immediately preceding. The 5 & 6 W. 4. c. 34. is an act "to amend two clerical errors" in a criminal laws consolidation statute passed six years before, and which had been in force in Ireland during the whole of that period. It recites and enacts as follows :—

" Whereas an act was passed in the ninth year of the reign of his late Majesty King George " the Fourth, intituled 'An Act for consolidating and amending the laws in Ireland relative to " ' larceny and other offences connected therewith :' And whereas the said act contains a proviso " in the words following ; (that is to say,) 'Provided always, that if upon the trial of any person " ' indicted for such misdemeanor it shall be proved that he obtained the property in question in " ' any such manner as to amount in law to larceny, he shall by reason thereof be entitled to be " ' acquitted of such misdemeanor :' And whereas the word 'not' has by a clerical error been " omitted between the words 'shall' and 'by' in the said proviso: Be it enacted by the King's " most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, " and Commons, in this present Parliament assembled, and by the authority of the same, that the " said herein-before recited proviso of the said act of parliament shall be deemed, construed, and " taken to have such and the same effect to all intents and purposes whatsoever, as if the said word " 'not' had been originally inserted between the words 'shall' and 'by.'

" II. And whereas in another clause of the said recited act the words following are contained ; " (that is to say,) 'And to encourage the prosecution of offenders, be it enacted, that if any person " ' guilty of any such felony or misdemeanor as aforesaid, in stealing, taking, obtaining, or " ' converting, or in knowingly receiving any chattel, money, valuable security, or other property " ' whatsoever, shall be indicted for any offence by or on the behalf of the owner of the property, " ' or his executor or administrator, and convicted thereof, in such case the property shall be " ' restored to the owner or his representative :' And whereas the word 'such' has by a clerical " error been omitted between the words 'any' and 'offence' in the said clause : Be it enacted, " that the herein-before recited clause of the said act of parliament shall be deemed, construed, " and taken to have such and the same effect to all intents and purposes whatsoever as if the said " word 'such' had been originally inserted between the said words 'any' and 'offence.'"

Whilst the present method subsists, excrescences of that kind must continue to deform the statute book. Acts of parliament will have to be "amended" and "explained" by other acts of parliament; and the merest correction of typography will remain the business, not of the Queen's Printers, but of the High Court of Parliament. But the consolidation of the statutes, once accomplished, will inevitably bring about a total and immediate change in this bad system. Amendments certainly there will be ; revision then, as now, will continue to be the periodical duty of Parliament; but the volume of the statute book will remain the same, and its order will not be broken. I have elsewhere, in concurrence with Mr. Rogers, expressed my opinion as to the plan to be adopted

for the periodical revision and amendment of the proposed digest; and I should not have again alluded to it in this place, were it not that the above examples of the crude and clumsy methods which I wish to sweep away, seemed to afford me an apt opportunity for contrast and illustration.

I spare to cite other instances. Those which I have cited suffice to show not only how much the proposed consolidation of the statutes at large is required, but with what comparative ease it will be effected, and into what small dimension their volume is capable of being reduced.

In conclusion, I venture to express the hope that these views will be approved by authority, and carried into practice. I suggest the immediate preparation of a bill of two clauses, for declaring and enacting the repeal of every one of the enactments contained in the schedule which Mr. Rogers and I have prepared in that expectation. The residue of the statute book, shrunk to less than one fourth of its present dimension, may then be dealt with in any way that the Lord Chancellor may think fit to recommend. I would, however, submit that it is upon a grand and complete scale, and not in the way of specimens of consolidation, that the work ought to be undertaken. Fragmentary specimens are but ill calculated to convey a true notion of the future digest. It was this consideration, which, more perhaps than the heavy and continuous labour in preparing the Expurgatory List, induced me to abandon the intention I had at first formed of preparing (to accompany my present minute) a short digest of the statutes relating to insurance,—a portion of the Great Statute of Contracts. I feel so strongly on this point that I do not even venture to recommend the preparation of the so much needed act for consolidating the laws of customs and excises, except in their proper place as chapters in the Statute of Finance.

I have offered my opinions on candour. I submit them without reserve to the consideration of the Lord Chancellor. If the decision of the authorities with whom it rests to decide on the future course of this great work be adverse to those opinions, I shall cheerfully surrender them, too anxious for its success to permit any obstacle which it is in my power to remove, to stand in the way of the performance.

T. Chisholm Anstey.

Statute Law Commission Office,
21st July 1853.

Minute by Mr. Rogers.

As it is deemed desirable that my colleagues and myself should separately state our views upon the work committed to us by the Lord Chancellor, and should also give an account of the actual advance made by us towards the accomplishment of that task, I beg to submit the following observations as explanatory of my own views on the great work before us. For an account of any progress which I may individually have made with the work, I would beg to refer to the joint minute by Mr. Anstey and myself.

The objects indicated to us by the Lord Chancellor were twofold,—

1st. The revision of the statute book, by the expurgation of acts which may be classed together as defunct.
2d. The consolidation of the statutes at present in actual operation.

Both of these objects are of practicable attainment, but it should be observed that the first may be gained without proceeding to the second; although the attainment of the second is altogether dependent on the previous accomplishment of the first.

The revision of the statute book by the mere expurgation of repealed, expired, and obsolete enactments, would of itself be a work of great utility, but it would fall very far short of the work of consolidation, and I treat it as forming but a small part of the plan conceived by the Lord Chancellor.

The expurgatory list prepared by Mr. Anstey and myself, and which is now under the revision of our colleague, Mr. Brickdale, will, I have good reason to hope, be found to have done much towards effecting such revision.

Assuming the work of revision to be completed, I propose to consider as well the positive advantages to be derived from consolidation, as also the best mode of proceeding with the work itself. It may, however, be well before doing so to turn our attention to any previous attempts at consolidation which may have been made by others; and should we find such attempts to have resulted in incompleteness or in failure, to endeavour to ascertain the measure of that incompleteness, or the causes of failure. And I do this the rather because I believe that a somewhat general impression exists that considerable and important branches of the statute law have already been consolidated, whilst the result of my experience is that of no one extensive branch of the law has any such complete consolidation been effected. The Bankrupt Law Consolidation Act, and (so far as some particular classes of offences are concerned) the Criminal Law Consolidation acts of the reign of George the Fourth, most nearly approach to exceptions. Many other attempts at consolidation are indeed to be met with in going through the volumes of the statutes, and some of these at a very early period of our parliamentary history; but I find none of them to be complete. It is my present intention to notice only those of a more recent date, and of them only a few. I will take the following as a fair specimen of an extensive class:—50 Geo. 3. c. 41., "An Act for placing the duties of "hawkers and pedlars under the management of the commissioners of hackney "coaches;" the preamble states "that it is expedient that the powers and provi- "sions contained in any acts of Parliament relating to the duties upon hawkers "and pedlars *should be brought together into one act;*" then follows *an absolute repeal of an act passed in a Parliament holden in the ninth and tenth years of his late Majesty King William, intituled "An Act for licensing hawkers and "pedlars,"* &c.; we then have a number of provisions as to the collection of "the duties of hawkers and pedlars," and at last we arrive at section 31:— "And be it further enacted, that all and every the powers, &c. *which in and "by the said act made in the reign of King William the Third, or by any other*

" *law* now in force relating to or concerning the duties by that act granted, are " provided, settled, or established (other than so far as the same is, are, or shall be " inconsistent with or contradictory or repugnant to anything in this act con- " tained, and other than in such cases for which different provisions are pre- " scribed by this act), shall be exercised, practised, applied, used, and put in " execution in and for the managing, raising, levying, collecting, recovering, " and paying the several duties *hereby* granted, and be in force with respect to " the same as fully and effectually, &c. as if all the powers, &c. were particularly " repeated and again enacted in this act." But examples from the reign of George the Third may be thought somewhat antiquated; I will therefore come to times nearer our own. In the year 1826 several acts were passed which are frequently treated as though they had effected a complete consolidation of the acts relating to the customs and excise. How far that is the case the following examples will show. Thus, the 7 Geo. 4. c. 48., after reciting the repealing act of 6 Geo. 4. c. 105., continues,—

" And whereas it is expedient that no doubt should remain whether any or what, if any, former " or other acts relating in any way to the customs continue to have any force: Be it therefore " enacted, that all statutes and acts, and all parts of statutes and acts, made in the respective Par- " liaments of England, of Great Britain, of Ireland, and of the United Kingdom, relating to the " revenue of customs, to navigation, or to the prevention of smuggling, in any part of the British " dominions, which were in force on the said fifth day of January one thousand eight hundred and " twenty-six, besides the several acts and parts of acts expressly repealed by the said repealing " act of last session, as herein-before amended, and by this act, shall be and the same are hereby " repealed; save and except such acts and parts of acts as are herein-after mentioned or described " and declared to be saved and excepted from the effect of this general repeal; that is to say, an " act passed in the eighteenth year of the reign of his late Majesty King George the Third, intituled " 'An Act for removing all doubts and apprehensions concerning taxation by the parliament of " 'Great Britain, in any of the colonies, provinces, and plantations in North America and the " 'West Indies, and for repealing so much of an act made in the seventh year of the reign of his " 'late Majesty as imposes a duty on tea imported from Great Britain into any colony or planta- " 'tion in America as relates thereto;' and also so much of any act or the part of any act now in " force, which was passed prior to the last-mentioned act, and by which any duties in any of the " British possessions in America were granted and still continue payable to the Crown, as relates " to the collection and appropriation of such duties."

Here follow the titles of no less than fifteen acts or parts of acts expressly saved from the operation of the repealing words; the saving clause then continues,—

" And all other acts and parts of acts relating to the said fisheries, which were in force upon the " said fifth day of January one thousand eight hundred and twenty-six; and also an act passed in " the sixth and seventh years of the reign of King William the Third, and another act passed in " the fifteenth year of the reign of his late Majesty King George the Third, and another passed " in the thirty-first year of the reign of his said late Majesty, which several acts relate to certain " keel boats and carriages, and for loading coals on board ships; and also an act passed in the " sixth year of the reign of his present Majesty, intituled 'An Act to repeal the several laws " 'relating to the performance of quarantine, and to make other provisions in lieu thereof;' and " also an act passed in the forty-third year of his late Majesty, intituled 'An Act for the better " 'securing the freedom of elections of members to serve in Parliament for any place in Ireland, " 'by disabling certain officers employed in the collection or management of his Majesty's revenues " 'in Ireland from giving their votes at such elections;' and also an act passed in the fourth year " of the reign of his present Majesty, intituled 'An Act for regulating the number of apprentices " 'to be taken on board of British merchant vessels, and for preventing the desertion of seamen " 'therefrom;' and which act it is hereby declared and enacted doth and shall extend to Ireland; " and also an act made in the Parliament of Ireland in the twenty-first and twenty-second years " of the reign of his said late Majesty, for the improvement of the city of Dublin, by making wide " and convenient passages through the same, and for regulating the coal trade thereof, and any " act or acts for amending or continuing the same; and also save and except all such acts and parts " of acts as relate to the maintaining or improving of any harbours, havens, ports, rivers, piers, " lighthouses, docks, canals, basins, or warehouses; and also all acts and parts of acts which are of " a local or personal nature, not being public general acts, although declared public; and also all " acts and parts of acts whereby any duties are made applicable to any particular purpose, or for " the use or benefit of any particular person or persons, or body or bodies corporate or politic, or " of any society or company; and also all acts whereby any drawback or duty is granted in respect " of materials used in building of churches and chapels; and also all acts and parts of acts relating " to the excise, so far only as the provisions of any such acts might and are to be put in force by " the commissioners of the excise or their officers in the United Kingdom, or by the commissioners " of customs or their officers in Ireland; and also so much of any acts which create or regulate " any jurisdiction for the trial of offences in Ireland or Newfoundland against the laws of customs, " navigation, or excise, as shall be in force immediately before the passing of this act; provided " always, that nothing herein contained, or in any act or acts contained, relating to the excise, shall " extend to prevent the exportation of tea from the warehouse in like manner as other goods " warehoused upon the first entry thereof may be exported under the laws of the customs; any- " thing in any law relating to the excise to the contrary notwithstanding:—all which said several " acts so saved and excepted shall continue in such force and effect, to all intents and purposes, " as if this act had not been passed; anything in this act contained to the contrary notwith- " standing."

In the following session we have a specimen of an excise consolidation act, 7 & 8 Geo. 4. c. 53., in the preamble of which act we find the following expressions :—" And whereas the laws relating to his Majesty's revenue of " excise have become very numerous and complicated, and it would greatly " tend to the public benefit to consolidate and amend the same, and for that " purpose to collect into one act the several powers, authorities, regulations, " and provisions thereof, which apply or relate generally to the collection and " management of the said revenue." Here, one would fancy, the draftsman would at once have set out all the previous " numerous and complicated " acts, and have in so many words repealed them. He does nothing of the sort ; the repealing section is section 127 :—" And be it further enacted, that from and " after the commencement of this act, all laws, powers, authorities, rules, regu- " lations, restrictions, exceptions, provisions, clauses, matters, and things, " provided for or contained in any act or acts of parliament in force at and " immediately before the commencement of this act, relating to the revenue of " excise in any part of the United Kingdom, or to any matter or thing expressly " provided for by this act *which are repugnant to or inconsistent with the* " *several matters, clauses, provisions, and regulations of this act*, or any of them, " shall be and the same are hereby respectively repealed." The result of all which is, that instead of the " numerous and complicated" excise laws being reduced to one act, all previous acts must be collated before the exact extent of the repeal can be ascertained. But it is not in the revenue laws alone that this evil exists. I have almost invariably found something of the same kind in every so-called consolidation act. To collect examples here would occupy far too great space. I will merely instance one act, so recent as the 15 & 16 Vict. c. 50. : " An " Act to *consolidate* and amend the laws relating to the militia in England." This act, so far from consolidating the laws relating to the militia, merely adds to their number ; it repeals portions of several acts, but only one entire act by words of positive repeal. I will add one proof of its consolidating qualities :— section 34., " The provisions of *any* act or acts applicable for or to the quartering " and billeting of the militia shall extend and be applicable for and to the quar- " tering and billeting of the militia in the houses and premises of all persons " licensed to sell beer or cider by retail, under the act of the first year of King " William the Fourth, ' to permit the general sale of beer and cider by retail in " ' England,' and the acts amending the same, to whom, under such acts or any " of them, the provisions in respect of billeting soldiers in victualling houses " contained in any act for punishing mutiny and desertion, and the better pay- " ment of the army and their quarters, are declared or made to extend."

The incompleteness and consequent failure of these attempts at consolidation I ascribe to several causes, one of the principal being the want of all classification in bygone legislation. The absence of any such classification makes the labour of collecting all the previous legislative provisions on any subject too laborious, and too uncertain to be undertaken by the draftsman. The natural consequence is, that words of general repeal, with saving clauses and exceptions, are to be found at the end of every act, which entirely destroy the effect of the expressed intention to consolidate the previous enactments on the subject.

The examples I have given, and which I could multiply almost indefinitely, sufficiently prove that the work of consolidation still remains to be accomplished.

I now proceed to consider how far a consolidation of the statute law will be of any practical benefit to the community. There are some who think that but small gain will be achieved by its accomplishment. I cannot, however, class myself amongst the number of those who entertain that opinion. Agreeing with my colleague Mr. Brickdale, that " a digest of the statute law *only* will not " be a manual of the law," I cannot altogether concur with him in his view, " that a digest of the statute law *only* cannot be made practically useful or satis- " factory." On the contrary, I am clearly of opinion that a digest of the statute law may be made both practical and satisfactory, and that in an eminent degree.

The advantages to be derived from such consolidation or digest seem to me to be threefold :—

1st. The immediate advantage which must arise from the reduction into a small and manageable compass, and from the simplification and classification, of by far the most important and the most extensive source of the law.

2d. The prospective advantage of an improved system of framing and promulgating future statutes, and which I venture to predict will never be attained

until the simplification and consolidation of the existing statute law has been effected.

3d. The great step which such consolidation would make towards the completion of a digest, or code of the whole *corpus* of the law, be it derived from a legislative or from a common law origin.

On the first of these advantages, which, as it appears to me, would be gained by a consolidation of the statute law, I shall say little more than that I believe it must be universally admitted that an easy access to one of the main sources of the law would be a great public benefit, well worthy of attainment; and that the almost total obstruction of all access to that source which at present exists, is an unmixed evil.

A moment's glance at the statistical account of the state of the statute book to be found in the joint minute by Mr. Anstey and myself, will, I imagine, convince the most sceptical that access to the statute law on any branch of English jurisprudence is, at the present time, no easy matter. Consolidation framed on a clear analytical system would at once dispel all difficulty, as the enactments on each branch of the law would be then found within the four corners of one act. How great an advantage this would be will be best appreciated by those whose duties have obliged them to have frequent recourse to the statute book.

The effect which an immediate consolidation of the existing statute law would have on future legislation would, I believe, be very great, and highly beneficial. By far the greater number of blunders which are to be found in acts by which changes are introduced into the existing law, arise from want of knowledge of the law proposed to be altered, or, in other words, from pure ignorance of the previous course of legislation on the same subject. Such ignorance is really little to be wondered at, when it is considered that to acquire a knowledge of previous legislation on any subject entails so lengthened an inquiry as an investigation of the contents of 38 quarto volumes. The statute law once consolidated and classified, a reference to the existing acts on any subject would become both easy and certain.

That the consolidation of the statute law would be a great step towards a digest of the whole law will, I think, be seen after a little inquiry into the present state of the common law. It may be a bold statement, but I venture to express my belief that the common law, properly so called, forms but an infinitesimally small fraction of the *corpus* of the law at the present day. It is true that the volumes of treatises and of the reports of decisions in the courts have now been enormously increased. But these, for the most part, have little to do with the common law. If we except Bracton, Glanvil, and others of the old text writers, the year books, and the reports down to the accession of the house of Hanover, text writers and reports alike will be found to be far more occupied with the construction to be put upon statutory enactments than with the common law. Indeed, since the commencement of the Hanoverian period the common law, as a source of the law, has been gradually contracted into the narrowest limits. If we exclude questions of constitutional law, and of the jurisdiction of courts, and some portions of the law of real property, all the great branches of the law are to be now traced rather to a legislative than to a common law origin. The whole of our financial system, our poor laws, the laws affecting joint stock companies, the transmission of personal property, the laws affecting the relations of masters and workmen, bankruptcy and insolvency, and many others, are all creations of the legislature. The reports of decisions of the courts may, I believe, be divided into three classes,—1st. Those which relate to repealed statutes, or to abrogated branches of the common law; 2d. Those which have reference to pleading and practice; and 3d. Those which relate to statutes still in force, and to such portions of the common law as are not yet abrogated or superseded by legislation. The first of these classes might be at once swept away; the second are now nearly useless, in consequence of the recent changes in the procedure of the courts; the third class alone are of any practical value, and it is from these reports and the older text writers that the common law is alone to be gleaned. I am, of course, aware that from those reported cases which relate to pleading, many important rules of law are to be extracted; but this could be done without any great difficulty.

The exact state of the common law would however, I believe, be best ascertained by a well-executed consolidation of the statute law, which on that

account amongst others, seems to me to be a most important work, as tending to the formation of a complete code, a consummation desired by none more ardently than by myself. I will merely add one other argument in favour of the consolidation of the statute law, before proceeding to a digest or code of the whole law, and it is this. Such consolidation can be completed in a comparatively short time; whilst, on the other hand, the preparation of a digest or code of the whole law would occupy a longer period, and would, moreover, I think, be found to be more difficult to carry through the Legislature. Added to which, the difficulties in the way of framing and passing a code would, as I have before suggested, be lessened by the previous consolidation of the statute law.

Assuming, therefore, for the present purpose, that it is determined that our attention is to be mainly directed to the consolidation of the existing statute law, I venture to offer the following suggestions as to the course to be pursued by us in order to attain that object :—

The Course to be pursued.

1st. To make an expurgatory list, in chronological order, of all wholly repealed, virtually repealed, expired, virtually expired, and obsolete statutes. Such list, when completed, to form the schedule to a declaratory and repealing act.

2d. To make a chronological list of all statutes not included in the expurgatory list, and which statutes should be treated as the only statutes remaining wholly or in part in force.

3d. To proceed with a careful analysis and classification of such last-mentioned statutes, and which would be found to range themselves under one or other of the eight divisions following:—1. Crown.—2. Parliament.—3. Finance.—4. Public Economy.—5. Rights of Private Persons.—6. Administration of Civil Justice.—7. Criminal Law and the Administration of Criminal Justice.—8. Religion.

4th. To expunge from the acts and parts of acts arranged under each of these divisions, repealed and expired provisions.

5th. To collect and reduce all tautological enactments upon the subject matter of each division.

6th. To collect all conflicting enactments on each head by which partial virtual repeals would be ascertained.

7th. To collect all enactments on which the courts have placed any particular construction, giving references to the cases by which such construction had been given.

8th. To distinguish from amongst such last-mentioned enactments those on which the courts, following a strict logical construction, had been compelled to arrive at a result at variance with the generally understood intention of the Legislature.

9th. To frame sets of statutes under each division, enacting concisely the existing law as extracted from the statutes and the cases decided upon them.

Before proceeding to this last step it would be necessary to frame a few simple general rules to be observed in drawing the new statutes, in order to secure uniformity in the execution of the work. It will be seen that the only actual alteration of the law would be in those cases where the courts, as before observed, pursuing a strict logical construction, had been driven to results at variance with the generally understood intention of the Legislature. Such enactments, I would propose, should be distinguished in the draft bills by the use of a different type.

Such is the general course of action which I would suggest for adoption. It is somewhat roughly sketched, and is open to more full development. For the views thus expressed I claim no originality, although it is right I should state, that they have been arrived at after much reflection on the subject, and after no slight labour bestowed in the endeavour to make myself thoroughly acquainted with the contents of the statute book in order to obtain that comprehensive grasp of the whole subject, without which nothing on a really great and complete

scale can be effected. It is a matter of no small gratification to me to find that I have arrived at views on the subject somewhat similar, as well to those entertained by the English Commissioners in 1835 as to those previously arrived at by the New York Commissioners appointed in 1825. Thus I find in the report of the English Commissioners the following passage:—"We now proceed " to a statement of the remedies which our previous statement of the defects " seems naturally to suggest.

" Remedies;—these may be classed as follows:—

" 1stly. The rejection from the statute book of enactments which have " been directly or indirectly repealed, or which are obsolete " or otherwise superfluous, and the rejection of all unnecessary " words and phrases.

" 2dly. The classification of the now dispersed enactments under ap- " propriate heads, according to some systematic arrangement.

" 3dly. The removal of inconsistencies, whether they be merely apparent, " or arise from a conflict in principles.

" 4thly. The generalizing and consolidating of enactments.

" 5thly. The substitution of plain and certain words, where the language " of an enactment is ambiguous; and the defining such terms " (particularly terms of art) as are in most frequent use, in " order that the same word may be always used in the same " sense, and that the same thing may be always signified by " the same word.

" 6thly. The altering of enactments so as to make their apparent sense and " meaning correspond with their legal effect.

" 7thly. The statement of technical rules governing the construction of " statutes.

" We may remark, that these remedies for the defects of the statute law " accord, for the most part, with the following suggestions of Lord Bacon in " that part of his "*Proposal for amending the Laws of England*," which relates " to the reforming and re-compiling the statutes:

" 1. The first, to discharge the books of those statutes, where the case, by " alteration of time, is vanished; as Lombards, Jews, Gauls, half-pence, &c. " Those may nevertheless remain in the libraries for antiquaries: but no re- " printing of them. The like of statutes long since expired and clearly " repealed; for if the repeal be doubtful, it must be so propounded to the " Parliament.

" 2. The next is, to repeal all statutes which are sleeping and not of use, " but yet snaring and in force: in some of those it will perhaps be requisite to " substitute some more reasonable law instead of them, agreeable to the time; " in others, a simple repeal may suffice.

" 3. The third, that the grievousness of the penalty in many statutes be miti- " gated, though the ordinance stand.

" 4. The last is, the reducing of concurrent statutes, heaped one upon another, " to one clear and uniform law."

The New York Commissioners seem at once to have directed their attention to framing a careful analysis of the various subjects embraced within the scope of their public statutes.

" To the formation, therefore, of a general plan of the work, founded on such " an analysis, our attention and thoughts were first directed, with a solicitude " heightened by the reflection, that the discovery in a future stage of our pro- " gress, of any material defect in the arrangement, might render useless to a " considerable extent, the labour already performed.

" After mature consideration, we came to the conclusion, that the statutes of " the proposed revision ought to be arranged and classified as follows:

" I. Those which relate to the territory, the political divisions, the civil polity, and the internal administration of the state.

" II. Those which relate to the acquisition, the enjoyment, and the trans- " mission of property, real and personal, to the domestic relations, and generally " to all matters connected with private rights.

" III. Those which relate to the judiciary establishments, and the mode of " procedure in civil cases.

" IV. Those which relate to crimes and punishments, to the mode of pro- " cedure in criminal cases, and to prison discipline.

" V. Public laws of a local and miscellaneous character, including the laws " concerning the city of New York; acts incorporating cities and villages, and " such other acts of incorporation as it may be deemed necessary to publish.

" We were led to this general arrangement as the most natural, and at the " same time the most scientific of which the subject was capable. It had also " the recommendation of suiting better than any other the actual state of our " jurisprudence, serious alterations having been proposed in the judiciary " establishments, upon which it was desirable to obtain an expression of the " sense of the legislature before the revision of the laws arranged under the " third and fourth heads."

This last remark of the New York Commissioners seems singularly pertinent to the state of the question at the present time in this country. It merely remains for me to add, that although the views here stated are those which have arisen in my mind after much attention given to the subject, I submit them, with the greatest diffidence, to the consideratiou of the Lord Chancellor, and am prepared, readily and vigorously, to pursue any other course which may be thought more desirable.

J. W. Rogers.

Statute Law Commission Office,
25th July 1853.

Joint Minute by Mr. Anstey and Mr. Rogers.

It having been determined that we should proceed with a careful examination of the statutes, for the purpose of making a report enumerating those which it might appear to be desirable at once to repeal, or declare repealed, and thus to remove so much useless matter from the statute book, we early in the month of April commenced our inquiry. We have now completed the proposed expurgatory list, carefully enumerating such public general acts as have appeared to us to be repealed, virtually repealed, obsolete, expired, and virtually expired. The period over which the list extends, commences with the 9th year of Hen. 3., and concludes with the end of the session of the 15th and 16th years of her present Majesty.

We have in course of preparation a chronological list of the statutes not included in the expurgatory list, and having acquired some outline of their contents, we propose to proceed without delay to a more critical examination of them.

The expurgatory list contains *ten thousand and forty-seven* acts, or about two thirds of the entire number of the public general acts.

It is obvious that so extensive a list, prepared in less than three months, will require a careful revision by a fresh hand, and this task has been assigned to Mr. Brickdale by Mr. Bellenden Ker.

A specimen of the expurgatory list is printed in the Appendix. In making selections for the specimen it was deemed advisable to give a short period from some of the leading epochs of our parliamentary history.

Of the utility, or rather the necessity, for an expurgatory list, it is merely necessary to observe, that no list, authoritative or otherwise, of the defunct statutes exists; and that as the statutes are arranged in no other than a mere chronological order, the defunct and the living law are altogether undistinguishable, excepting by the aid of the works of text writers, or after a long and troublesome research amongst the statutes themselves.

An expurgatory list, arranged chronologically, will at once remove this difficulty; as the question whether an act is in force or not may be in a moment ascertained by reference to the list. If the act upon which information is sought is found in its chronological order in the expurgatory list, the fact that it is defunct is at once made apparent; if it is not found in the list, it may be concluded that the act is in whole or in part in force.

The difficulty of ascertaining the extent of partial repeals will still remain, but from the extremely unscientific and clumsy mode in which partial repeals are effected, we fear that this is an evil which can only be completely removed by the consolidation of those acts, of which some portions remain in force. The evil may, however, it is hoped, be mitigated in the course of the revision of the expurgatory list, aided by the critical examination now in progress by Mr. Coode of the acts wholly or partially in force.

We have already remarked that the expurgatory list is still under revision. Subject to that revision we believe that the following account may be taken as a nearly accurate description of the present state of the statute book.

Public General Acts	16,442
Local and Personal Acts	9,058
Private Acts	14,233

Of the Public General Acts:—	
Acts repealed	2,707
virtually repealed	2,617
obsolete	436
expired or virtually expired	4,287
relating exclusively to Scotland	419
Ireland	610
the Colonies	400
of a merely local or personal application	2,468
	13,944

If this number (13,944) be subtracted from the total number of public general acts, it will be seen that there are remaining in force 2,498 public general acts,—relating, some to the United Kingdom generally, others exclusively to England, others to Great Britain.

The provisions of the acts so remaining in force apply to the several matters, and in the several proportions contained in the following analysis. It may be proper, however, here to observe, that a large number of those acts apply to many different subjects, and these often of no kindred nature. It will therefore be matter of no surprise that the total number of acts noticed in the analysis differs from the number (2,498) before stated to be the number of public general acts now in force relating to the United Kingdom, or exclusively to England or Great Britain.

CROWN.

Authority, style and title	35
Royal family, privy council, household and officers	50
Prerogatives and duties:	
Administration of justice (see *post*, divisions Administration of Civil Justice, and Administration of Criminal Justice.)	
Defence of the realm:	
Army (including marines, prizes, pensions, Chelsea hospital, &c.)	48
Fortifications and ordnance	26
Militia	16
Navy (including prizes, pensions, Greenwich hospital, &c.)	50
Volunteers and yeomanry	6
Intercourse with foreign states:	
* Ambassadors, treaties and conventions	2
General limitations and restrictions	24
Crown lands, royal mines, wrecks, &c.	40†

PARLIAMENT.

Constitution, authority, and style of Parliament	6
Assembly, dissolution, prorogation, and adjournment	18
Privilege of Parliament	17
Royal assent	2
Form and construction of acts	5‡

* This number has no reference to the very numerous acts for carrying into effect particular treaties and conventions.

† This number does not include many acts of a strictly local character, nor does it separate from crown lands the department of public works.

‡ This number does not include Lands Clauses Act, and other acts of that nature.

PARLIAMENT—*continued.*

House of Lords:
- Members - 16*
- Officers - 8
- Orders and proceedings - 8

House of Commons:
- Members, (qualifications, elections, electors, privileges, oaths, controverted elections, &c.) - 185
- Officers - 16
- Orders and proceedings - 8

FINANCE.

Sources of revenue:
- Customs:
  - Duties - 19
  - Regulations and management - 34
- † Excise:
  - Management and duties - 120
- ‡ Fees on the administration of justice (*general law*) - 5
- Post-office - 14
- Stamps (*including probate and legacy duties*) - 130
- Taxes:
  - Assessed taxes - 40
  - Land tax - 36
  - Property and income tax - 8

Appropriation of revenue:
- Annuities and grants to royal and eminent persons - 42
- Civil list - 4
- Grants for various public purposes - 50
- Salaries, official and judicial - 24

[There is further an annual supply and appropriation act.]

Management of the revenue:
- General regulations - 30
- Officers - 16
- Public accounts - 16
- Procedure on revenue side of court of Exchequer - 36

National debt - 200

Currency - 35

§ PUBLIC ECONOMY.

- Charities and benevolent institutions - 32
- County rates (*collection and application*) - 7
- Education, science, and fine arts - 30
- Fairs and markets - 8
- Fisheries - 23
- Friendly societies (*benefit societies, &c.*) - 10
- Highways, bridges, and turnpike roads - 71
- Houses of entertainment and places of public amusement - 14
- Inland navigation - 18
- Insurance (*life, fire, and marine*) - 15
- Joint stock companies - 13
- Lunatic asylums - 15
- Manufactures and mines (*factories, mines, masters and workmen*) - 27

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* This number includes the acts relating to the elections of Scotch and Irish representative peers.

† These laws are in greater confusion than those relating to any other subject in the statute book, not excepting the stamp laws.

‡ The statutes which direct fees to be paid into the consolidated fund are the only acts included in this number.

§ The course of legislation upon the subjects collected under this division has not been such as to admit easily of any analytical arrangement, one merely alphabetical has therefore been adopted.

PUBLIC ECONOMY—*continued.*

Mercantile marine (*seamen, pilots, shipping, &c.*)	50
Municipal corporations	65
Police :	
Metropolitan police	10
Rural police (*constables generally*)	30
Poor	120
Professions and trades (*except the legal profession*)	43
Public health (*extramural interments, &c.*)	23
Railways	19
Savings banks	9
Sewers, drainage, and buildings	19
Slavery and slave trade	20
Statistics	12
Weights and measures	4

RIGHTS OF PRIVATE PERSONS.

Absolute rights :	
Liberty, security of person, property, and reputation	56
*Rights arising from domestic relationships :	
Husband and wife	22
Parent and child	4
Guardian and ward	3
† Master and servant	4
Rights in relation to property :	
Real property :	
Alienation	14
Ancient demesne	3
Attornment	3
Commons	20
Copyhold	11
Curtesy	2
Descent	8
Devise	2
Dower	14
Estate :	
At will	2
Contingent interests	1
Contingent remainder	1
For years (See *post*, Lease).	
For life	6
Fee tail	5
Reversion	5
Fines and recoveries	2
Fraudulent assurances	13
Gavelkind	2
Inrolment	5
Joint tenancy and tenancy in common	3
Lease	14
Mortgage	11
Mortmain	18
Partition	5
Possession, *disseisin, entry, and summary remedy for recovery of*	17
Prescription	1
Registration	9
Rent	40
Tenure (excluding ancient demesne, copyhold, and gavelkind)	1

* To the number of enactments stated under this division, must be added those which relate to Dower, Curtesy, Poor, Master and Workmen, &c. &c.

† Under this title merely the acts generally regulating the relationship are computed. The number of acts affecting various departments of labour will be found under "PUBLIC ECONOMY."

RIGHTS OF PRIVATE PERSONS—*continued.*

Rights in relation to property—*continued.*
- Real property—*continued.*
  - Trust estate:
    - *Accumulations* - 1
    - *Appointment* - 2
    - *Conveyance and transfer of* - 14
    - *Money ; land* - 1
    - *Protector of settlement* - 1
    - *Uses and trusts* - 9
  - Warranty - 8
  - Waste - 10
- Personal property:
  - Administration (see Executors and administrators).
  - Annuity - 4
  - Apportionment - 2
  - Bailment - 7
  - Bills of exchange and promissory notes - 18
  - Bonds - 4
  - Contracts - 10
  - Copyright:
    - *Books* - 2
    - *Designs for ornamenting articles of manufacture* - 5
    - *Dramatic pieces* - 2
    - *International copyright* - 2
    - *Lectures* - 1
    - *Prints and engravings* - 4
    - *Sculpture* - 4
  - Debts - 10
  - Fraudulent assignments (see *ante*, Fraudulent assurances).
  - Patents for inventions - 3
  - *Stock and dividends - 2
  - Testament:
    - *Attestation and form of* - 3
    - *Executors and administrators* - 23
  - Trust property (see *ante*, Trust estate).
  - Usury - 6
- Persons under disabilities:
  - Aliens - 25
  - Bankrupts - 2
  - Insolvents - 12
  - Femes covert - 4
  - Infants - 7
  - †Idiots and lunatics - 12

ADMINISTRATION OF CIVIL JUSTICE.

Courts:
- Constitution and jurisdiction:
  - Admiralty - 14
  - Assize and nisi prius - 28
  - Bankruptcy - 7
  - Borough courts - 5
  - Chancery - 27
  - Chivalry - 1
  - Cinque ports - 2
  - Common law courts at Westminster - 15
  - County courts - 14
  - Court baron - 1
  - Exchequer chamber - 5

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* As to particular stocks and shares, see the divisions "FINANCE" and "PUBLIC ECONOMY."

† To this number must be added those relating to Private Lunatic Asylums and to Pauper and Criminal Lunatics. See divisions "PUBLIC ECONOMY" and "CRIMINAL LAW."

ADMINISTRATION OF CIVIL JUSTICE—*continued.*

Courts—*continued.*
- Constitution and jurisdiction—*continued.*
  - House of Lords - 2
  - Insolvent debtors court - 7
  - Judicial committee of privy council - 13
  - Palatine courts, Durham and Lancaster - 19
  - Pie powder - 2
  - Stannary courts - 6
- Practice:
  - Holidays - 1
  - Orders of the court of Chancery - 9
  - Rules of common law courts - 4
  - Terms and sittings - 10

Judges and officers:
- Chancery (judges and officers of) - 40
- Common law courts at Westminster:
  - Judges and officers - 44
- Justices of assize and nisi prius - 16
- Counsel and attornies:
  - Counsel - 4
  - Attornies - 10
- Sheriff and his officers - 60
- Peculiar and inferior courts (officers of)* - 1

Procedure.
- Actions and procedure by actions.—Actions:
  - Personal actions - 36
  - Real and mixed actions - 19
- Procedure by action:
  - Abatement - 17
  - Arrest - 4
  - Bail - 7
  - Error - 6
  - Execution - 41
  - Interpleader - 2
  - Judgment - 18
  - Limitations - 11
  - Nonsuit - 4
  - Notice of action - 1
  - Outlawry - 12
  - Pleading - 22
  - Process - 3
  - Suing in formâ pauperis - 2
  - Trial - 12
  - Warrant of attorney and cognovit actionem - 8
- Procedure in equity - 23
- Arbitration - 3
- Attachment - 5
- Recognizances - 19
- Writs - 65
- Amendment - 20
- Evidence:
  - † Documentary and other proofs - 18
  - Witnesses:
    - *Competency* - 10
    - *Examination* - 9
- Costs - 28

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* There is only one act which relates to these officers generally, but there are a multitude of provisions in the different acts which regulate the several inferior courts.

† There are also many enactments (between 70 and 100) making documents of various kinds evidence of particular facts stated in them.

Offences against religion:	
Arresting clergymen	1
Blasphemy	2
Contempts	6
Disturbance of worship	4
Falsification of ecclesiastical leases	1
Heresy	1
Roman Catholic relief	2
Oppression of ecclesiastical judges	2
Witchcraft	2
Offences against the law of nations:	
Piracy	7
Truce-breaking	1
Violation of diplomatic privileges	1
Offences against the Queen and government:	
Treason:	
Acts made treason, and punishable as such	12
Attainder	4
Counsel	2
Evidence	6
Forfeiture	3
Indictment	7
Judgment	2
Jury	2
Trial	5
Offences against the person of the Sovereign	1
Offences injurious to the Queen's prerogative:	
Coin, offences relating to	4
Felonies against Queen's council	3
Offences tending to impair national defence:	
Desertion and mutiny	5
Escape of prisoners of war	1
Foreign enlistment	1
Forgery to escape enlistment	2
Ordnance and stores, offences relating to	8
Ships of war, dockyards, &c.	1
Offences of a seditious tendency	10
Trafficking in public offices	2
Contempts	8
Præmunire	32
Offences against the revenue:	
Offences affecting its receipt:	
Customs	5
Excise	10
Post-office	2
Stamps	19
Taxes	8
Woods and forests	3
Offences affecting its collection, audit, custody, and management	3
Offences affecting its expenditure:	
Annuities and debt:	
Forgery and perjury	24
Compensation allowances):	
Forgery and perjury	6
Payment of forces (salaries and pensions, civil department)	9
Offences against public justice:	
Bribery	6
Champerty and maintenance	20
Compounding informations	3
Conspiracy	1

CRIMINAL LAW—*continued.*

- Offences against public justice—*continued.*
  - Contempt of ministers of justice - 1
  - Deceit in the King's or Queen's court - 1
  - Embracery and false verdict - 1
  - Embezzling, stealing, and destroying judicial documents - 2
  - Escape, rescue, and prison breach - 11
  - Extortion - 10
  - False personation - 2
  - Forgery - 24
  - Misconduct and negligence of officers - 7
  - Obstructing execution of process or lawful apprehension - 4
  - Oppression by magistrates - 2
  - Perjury - 79
  - Receiving stolen property - 7
  - Returning from transportation - 3
  - Taking reward for return of stolen goods - 1
- Offences against public economy:
  - Offences against police:
    - *Anatomy laws* - 1
    - *Buildings and works*
      - Destruction of buildings and works:
        - *Bridges* - 1
        - *Turnpikes* - 1
        - *Works of art* - 1
    - *Disorderly houses* - 4
    - *Games and gaming* - 1
    - *Game and fish* - 6
    - *Health* - 7
    - *Madhouses* - 2
    - *Marriage laws* - 2
    - *Nuisances* - 7
    - *Religious orders* - 1
    - *Traffic* - 4
    - *Vagrancy* - 8
  - Offences against the public peace:
    - Affray - 2
    - Assault - 18
    - Assembling for training to arms - 1
    - Disturbance of elections - 1
    - Forcible entry - 6
    - Libel - 4
    - Riding or going armed - 1
    - Riot - 11
    - Sending threatening letters - 3
    - Spreading false news - 5
    - Tumultuous petitioning - 2
  - Offences affecting trade and commerce:
    - Cheating - 5
    - Combination - 1
    - Forestalling, regrating, and engrossing - 1
    - Fraudulent bankruptcy and insolvency - 3
    - Fraudulent dealing by agents - 2
    - Slave trade - 3
    - Truck payment - 1
    - Usury - 1
- Offences against individuals:
  - Offences against their person:
    - Abandoning seamen - 2
    - Abduction - 1
    - Abortion - 1

CRIMINAL LAW—*continued.*

Offences against individuals—*continued.*
- Offences against their person—*continued.*
  - Assault (See *ante*, Offences against the public peace).
  - Carnal knowledge - 2
  - Concealing birth - 2
  - Homicide - 2
  - Malicious arrest - 4
  - Manslaughter - 1
  - Mayhem (and attempts to commit) - 3
  - Murder (and attempts to commit) - 6
  - Rape - 2
  - Sodomy - 1
- Offences against their property:
  - Arson:
    - *Buildings* - 4
    - *Mines* - 2
    - *Ships* - 2
    - *Stacks of agricultural produce* - 2
    - *Standing crops* - 1
  - Burglary - 3
  - Embezzlement (*by agents, bankers or factors*) - 1
    (*by bankrupts*) - 1
    (*by clerks, servants, and workmen*) - 15
    (*by members, officers, and servants of public copartnerships*) - 3
  - Forgery - 12
  - Illegal distress - 3
  - Larceny:
    - *Animals* - 3
    - *Fixtures* - 1
    - *Fruit, vegetables* - 1
    - *General enactments* - 5
    - *Letters* - 1
    - *Securities, wills, writings* - 2
    - *Shrubs, trees, &c.* - 1
    - *Stealing from or in particular places* - 7
    - *Stealing from the person* - 4
    - *Stealing by persons in particular capacities and relationships* - 4
  - Malicious injury:
    - *Buildings* - 4
    - *Cattle* - 1
    - *Clothes* - 2
    - *Fences and gates, and enclosed lands* - 4
    - *Fish and fishponds* - 1
    - *Fruit and vegetables* - 1
    - *Hop-binds* - 2
    - *Machinery* - 3
    - *Manufactures* - 1
    - *Mill-ponds* - 1
    - *Mines* - 1
    - *Shrubs, trees, &c.* - 1
    - *Vessels* - 3
    - *Works on rivers, railways, and canals, &c.* - 2
  - Misapplication of corporate property - 1
  - Obtaining property by false pretences - 3
  - Soliciting minors to grant annuities - 1
  - Waste - 1

Accessaries - 13

ADMINISTRATION OF CRIMINAL JUSTICE.

Courts :
- Constitution and jurisdiction :
  - Admiralty - - - - - 20
  - Central criminal court - - - - 4
  - Court of criminal appeal - - - - - 1
  - Courts of gaol delivery, and oyer and terminer - - 7
  - Court of the lord steward of King's or Queen's household 2
  - House of Lords - - - - - - 4
  - King's or Queen's bench, *Crown side* - - 2
  - Quarter sessions and justices in quarter sessions :
    - *Justices in quarter sessions* - - - 13
    - *Quarter sessions in boroughs* - - - 6
- Practice :
  - Central criminal court - - - - 3
  - Courts of gaol delivery, and oyer and terminer - - 6
  - King's or Queen's bench (*Crown side*) - - - 3
  - Quarter sessions :
    - Division of court - - - - - 3
    - Fees - - - - - 1
    - Holding - - - - - 9
    - Proceedings - - - - 2
    - Proclamations - - - - - 1
- Judges and officers :
  - Judges and justices of gaol delivery, and oyer and terminer, &c. - - - - - - - 10
  - Justices of the peace - - - - 40
  - Sheriff, bailiffs, &c. (and see Sheriffs, under division ADMINISTRATION OF CIVIL JUSTICE) - - - - 9
  - Clerk of peace and clerks to justices of the peace - 13
  - Coroner - - - - - 17
- Procedure :
  - Arrest - - - - - - 14
  - Cases reserved - - - - - 1
  - Examination and bail :
    - Examination - - - - - 2
    - Bail - - - - - 12
  - Inquest :
    - Grand jury - - - - 2
    - Coroner's jury - - - - 8
  - Indictment and information :
    - Indictment - - - - - 40
    - Information - - - - - 7
  - Plea and privilege - - - - - 5
  - Trial :—*Acquittal, arraignment, defence* - - - 11
    - Jury :—*Challenge, functions, general enactment, medietate linguæ, qualification and return, summoning, and verdict* - - 8
  - Conviction - - - - - - 6
  - Judgment :—*Death, general enactments, imprisonment, pillory, transportation, whipping* - - 14
  - Attainder :—Disherison, escheat, forfeiture - - - 15
  - Execution :
    - Death - - - - - - 6
    - Imprisonment - - - - - 9
    - Stay of execution - - - - - 3
    - Transportation - - - - - 12
  - Outlawry and waiver - - - - 9
  - Pardon - - - - - - - 13
  - Writs :
    - Capias (See *Outlawry and waiver*).
    - *Certiorari - - - - - - 9

* In addition to this number there are numerous sections of acts take away the right to certiorari in particular cases.

ADMINISTRATION OF CRIMINAL JUSTICE—*continued.*

Courts—*continued.*
- Writs—*continued.*
  - Habeas corpus - 6
  - Restitution - 3
- Evidence - 25
- Costs and expenses - 10
- Gaols and prison discipline - 33

RELIGION.

- Church of England:
  - Articles of faith:
    - Doctrine - 4
    - Liturgy and sacraments - 21
    - Observances—*Fasts and Festivals* - 26
  - Authority:
    - Commissions of inquiry and improvement - 27
    - Convocation - 6
    - Courts:
      - *Constitution and jurisdiction* - 48
      - *Judges and officers* - 15
      - *Procedure* - 15
    - Independence - 65
    - Queen's supremacy - 9
  - Benefices:
    - Admission and usurpation - 32
    - Appropriation - 3
    - Glebe and houses of residence - 20
    - Leases - 13
    - Mortuaries - 4
    - Parish clerks - 2
    - Pluralities and residence - 7
    - Small livings—*Augmentations* - 16
      - *Exemptions* - 6
    - Stipendiary curates and lecturers - 3
    - Tithes - 38
    - Union and division of parishes - 24
  - Churches:
    - Cathedral and collegiate churches - 20
    - Parish churches, (including district churches, and chapels of ease) - 26
    - Church rates - 9
    - * Churchwardens - 24
    - † Churchyards - 10
  - Clerks:
    - Discipline - 10
    - Ordination - 7
    - Privileges and disabilities - 7
  - Dignitaries:
    - Archbishops and bishops:
      - *Election, nomination, and consecration* - 12
      - *Jurisdiction, rights, and privileges* - 19
      - *Temporalities* - 24
    - Archdeacons and rural deans - 8
    - ‡ Deans and canons.
  - First fruits and tenths - 19
- Dissent:
  - Judaism - 3
  - Papistical dissent - 21
  - Protestant dissent - 20

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* The statutes relating to their duties as overseers of the poor are not included in this computation.

† There are also several provisions in the Church Building Acts with reference to Churchyards.

‡ Enumerated under the title Cathedral and Collegiate Churches.

The immediate consolidation of the whole body of enactments appearing in the above analysis, is on every account most desirable.

The multiplicity of those enactments is, in a great measure, owing to the faulty or unskilful mode in which amendment acts are at present drawn up. Instead of being a simple warrant for a new edition of the original act, the act amending it assumes the form of an independent enactment, and it takes its place in the statute book, not according to the order of subject, but according to the order of date. The amendment may be trifling or important. The error or defect which it is meant to set right may be merely clerical, or one of substance. In either case the course taken is the same, and the inquirer must refer in chronological order to every succeeding volume in the statute book, before he is tolerably sure that he has before him, not only the original enactment, but also the whole of the amending enactments.

We recommend a simpler method for the future. The existing statute law being once consolidated, all further amendments should be made the object and occasion of a new edition of the original statute;—and the amending act should be suffered to remain in force only until such new edition is duly and accurately made; which done, the expiration of the amending act ought to be declared and enacted by an "expiring laws, declaratory repeal act," to be passed periodically for that purpose.

We would also recommend the promulgation of every such new edition by transmitting a copy of it to every judicial, magisterial, and other public department within the realm.

T. Chisholm Anstey.
J. W. Rogers.

Statute Law Commission Office,
25th July 1853.

Extracts from the Expurgatory List (now under revision), prepared by Mr. Anstey and Mr. Rogers, of Public General Statutes by them proposed to be declared no longer in force, distinguishing the repealed (Rep.), *the virtually repealed* (Virt. Rep.), *the obsolete* (Obs.), *the expired* (Exp.), *and virtually expired* (Virt. Exp.) *Statutes: And also enumerating the* (*Public*) *Local and Personal, and the Private Acts.*

—	Statutes repealed.	Subject Matter.	Repealing Statutes.
Rep.	9 Hen. 3. Magna carta, c. 26.	Life and member	9 Geo. 4. c. 31.
Rep.	—— Forest charter, c. 10.	King's venison	7 & 8 Geo. 4. c. 27.
Obs.	20 Hen. 3. Stat. of Merton, —— c. 2.	Widow's wills	Since Wills' Acts, &c.
Virt. Rep.	—— c. 3.	Redisseisin	3 & 4 W. 4. c. 27.
Obs. Virt. Rep.	—— c. 4.	Common	3 & 4 Edw. 6. c. 3. and 3 & 4 W. 4. c. 27.
Obs. Virt. Rep.	—— c. 5.	Usuries	37 Hen. 8. c. 9.
Obs. Virt. Rep.	—— c. 6.	Wards	12 Car. 2. c. 24.
Obs. Virt. Rep.	—— c. 7.	Wards	12 Car. 2. c. 24.
Obs. Virt. Rep.	—— c. 8.	Limitation	3 & 4 W. 4. c. 27.
Exp.	—— c. 11.	Trespasses.	
Virt. Rep.	20 Hen. 3. Stat. of Ireland	Coparceners	12 Car. 2. c. 24.
Obs.	37 Hen. 3. Sententia, &c.	Charter breakers.	
Obs. Virt. Rep.	43 Hen. 3. Provisions, cc. 11. 12. 13. and 14.	Process	6 Geo. 4. c. 50., 3 & 4 W. 4. cc. 27. 105., 15 & 16 Vict. c. 76., &c.
Obs. Virt. Rep.	—— c. 18.	Escheators	57 Geo. 3. c. 61.
Obs.	—— c. 19.	Religious houses.	
Obs.	—— c. 20.	Essoins.	
Rep.	—— c. 24.	Jurors	6 Geo. 4. c. 50.
Virt. Rep.	—— c. 25.	Murder fine	9 Geo. 4. c. 31., and 10 Geo. 4. c. 34.
Virt. Rep.	—— c. 26.	Warranty in Eyre	57 Geo. 3. c. 61., 3 & 4 W. 4. c. 74., 7 & 8 Vict. c. 76., and 8 & 9 Vict. c. 106.
Virt. Rep.	—— c. 27.	Clerks' bail	7 & 8 Geo. 4. cc. 27. 28
Exp.	51 & 52 Hen. 3. Award of Kenilworth.	Civil war.	
Virt. Rep.	52 Hen. 3. Statute of Marlebridge, cc. 6 & 7.	Wardships	12 Car. 2. c. 24.
Virt. Rep.	—— c. 8.	Redisseisin	3 & 4 W. 4. c. 27.
Obs.	—— c. 10.	Sheriffs' tourns.	
Obs.	—— c. 11.	Beaupleader.	
Obs. Virt. Rep.	—— cc. 12 & 13.	Days in court, &c.	2 & 3 W. 4. c. 39., 15 & 16 Vict. c. 76., and other Law Amendment Acts.
Rep.	—— c. 14.	Jurors	6 Geo. 4. c. 50.
Virt. Rep.	—— c. 16.	Wardships, &c.	12 Car. 2. c. 24 and 3 & 4 W. 4. c. 27.
Rep.	—— c. 24.	Jurors	6 Geo. 4. c. 50.
Rep.	—— c. 25.	Murder fine	9 Geo. 4. c. 31. and 10 Geo. 4. c. 34
Virt. Rep.	—— c. 26.	Warranty	3 & 4 W. 4. c. [illegible], 7 & 8 Vict. c. 76., and 8 & 9 Vict. c. 106.
Virt. Rep.	—— c. 27.	Clerks' bail	7 & 8 Geo. 4. cc. 27. 28.
Obs.	—— c. 28.	Abbots	Since Reformation.
Virt. Rep.	—— c. 29.	Real writs	3 & 4 W. 4. c. 27.
Rep.	54 or 55 Hen. 3. statute or ordinance (in MS.)*	Jews	9 & 10 Vict. c. 59.
Obs. Virt. Rep.	3 Edw. 1. Stat. of Westm. 1. —— c. 1.	Religious houses and purveyance.	12 Car. 2. c. 24.
Rep.	—— c. 2.†	Clerks indicted	32 Hen. 8. c. 2., 1 Edw. 6. c. 12., 6 Geo. 4. c. 25., 7 & 8 Geo. 4. cc. 27. 28., and 4 & 5 Vict. c. 22
Virt. Rep.	—— c. 7.	Purveyance	12 Car. 2. c. 24.
Obs.	—— c. 8.	Beaupleader.	
Rep.	—— c. 11.	Inquests	9 Geo. 4. c. 31.
Virt. Rep.	—— c. 12.	Mute of malice	7 & 8 Geo. 4. c. 28.
Rep.	—— c. 13.	Ravishment	9 Geo. 4. c. 31.
Virt. Rep.	—— c. 14.	Appeal of felony	59 Geo. 3. c. 46.

* It is printed in Fœdera, N. E., Vol. I. Part I. p. 489., and also in "Anglia Judaica," pp. 138-91.

† This is a curious instance of a series of unsuccessful efforts to repeal one statute. For Mr. Justice Blackstone's remarks on the state of the law after the passing of the Act of Edw. 6., see iv. Comm., ch. 28.

——	Statutes repealed.	Subject Matter.	Repealing Statute.
	3 Edw. 1. Statute of Westm. 1.		
Virt. Rep. -	—— c. 15. -	Prisoners' bail - -	7 Geo. 4. cc. 27. 64.
Obs. - -	—— c. 18. -	Assessing of county fines.	
Virt. Rep. - -	—— c. 20. - -	Trespasses - - -	7 & 8 Geo. 4. cc. 27. 28.
Obs. Virt. Rep.	—— cc. 21. 22. -	Wards - - -	12 Car. 2. c. 24.
Virt. Rep. -	—— c. 24. - -	Disseisin, &c. - -	3 & 4 W. 4. c. 27.
Qy. Obs. -	—— c. 27. -	Fees for chapiters.	
Obs. Virt. Rep.	—— c. 32. - -	Purveyance - -	12 Car. 2. c. 24.
Obs. - -	—— c. 34. - -	Scandalum magnatum.	
Obs. Virt. Rep.	—— c. 36. - -	Aids - - -	12 Car. 2. c. 24.
Obs. Virt. Rep.	—— c. 37. - -	Disseisin - - -	3 & 4 W. 4. c. 27.
Obs. - -	—— c. 38. - -	Attaint of jurors.	
Virt. Rep. -	—— c. 39. - -	Limitation - - -	3 & 4 W. 4. c. 27.
Obs. Virt. Rep.	—— cc. 40. to 46. -	Real writs; warranty; champions, &c.	59 Geo. 3. c. 46., 2 & 3 W. 4. c. 39., 3 & 4 W. 4. cc. 27. 74., 7 & 8 Vict. c. 76., 8 & 9 Vict. c. 106., and 15 & 16 Vict. c. 76.
Obs. Virt. Rep.	—— cc. 47. 48. -	Nonage and wardship -	12 Car. 2. c. 24. and 3 & 4 W. 4 c. 27.
Obs. - -	—— c. 50. -	Saving clause.	
Obs. - -	—— c. 51. - -	Time of taking assizes.	
	4 Edw. 1. Statute of Bigamy,		
Obs. Virt. Rep.	—— cc. 1. 2. 3. -	Aide prier - -	12 Car. 2. c. 24., 3 & 4 W. 4. cc. 27. 74., 7 & 8 Vict. c. 76., 8 & 9 Vict. c. 106., and 15 & 16 Vict. c. 76.
Rep. - -	—— c. 5. - -	Bigamous clerks - -	9 Geo. 4. c. 31.
Virt. Rep. -	—— c. 6. - -	Warranty - -	7 & 8 Vict. c. 76. and 8 & 9 Vict. c. 106.
Exp. - -	—— Statute of Rageman	Assigning of justices.	
	6 Edw. 1. Statutes of Gloucester.		
Exp. - -	—— Introductory part	Franchises.	
Obs. Virt. Rep.	—— c. 1. - -	Damage and costs in real actions, &c.	3 & 4 W. 4. c. 27. and 15 & 16 Vict. c. 76.
Obs. - -	—— c. 2. -	Parole demurrer.	
Obs. Virt. Rep.	—— cc. 3. 4. 6. 8. -	Real writs - -	2 & 3 W. 4. c. 39., 3 & 4 W. 4. cc. 27. 74., 7 & 8 Vict. c. 76., 8 & 9 Vict. c. 106., and 15 & 16 Vict. c. 76.
Virt. Rep. -	—— c. 9. - -	Appeals and trials of murder	59 Geo. 3. c. 46. and 9 Geo. 4. c. 31.
Virt. Rep. -	—— c. 10. - -	Essoins - -	2 & 3 W. c. 39., 3 & 4 W. 4. cc. 27. 74., 7 & 8 Vict. c. 76., and 8 & 9 Vict. c. 106.
Virt. Rep. -	—— c. 12. - -	Voucher in London -	" "
Obs. Virt. Rep.	—— c. 15. - -	Assize of wines.	21 Jac. 1. c. 28. and 7 & 8 Vict. c. 24.
Obs. Virt. Rep.	7 Edw. 1. Statute of Religious	Mortmain - -	9 Geo. 4. c. 36, &c.
Virt. Rep. -	9 Edw. 1. Article of the Statute of Gloucester.	Voucher in London -	3 & 4 W. 4. cc. 27. 74., 7 & 8 Vict. c. 76., and 8 & 9 Vict. c. 106.
Obs. Virt. Rep.	12 Edw. 1. Statutes of Wales, cc. 2. to 14.	Laws and process - -	6 Geo. 4. c. 50., 11 Geo. 4. & 1 W. 4. c. 70., 15 & 16 Vict. c. 76., &c.
Obs. Virt. Rep.	—— Provisions, &c. or Statute of Rutland.	Exchequer court and receipt	2 & 3 W. 4. c. 39. and 4 & 5 W. 4. c. 15.
	13 Edw. 1. Statute of Westm. 2.		
Obs. Virt. Rep.	—— cc. 2. to 6. -	Real writs, warranty, &c. -	3 & 4 W. 4. cc. 27. 74., 7 & 8 Vict. c. 76., 8 & 9 Vict. c. 106., and 15 & 16 Vict. c. 76.
Obs. Rep. -	—— cc. 7. 8. -	Admeasurement - -	3 & 4 W. 4. c. 27.
Obs. Virt. Rep.	—— c. 9. - -	Distress for services -	12 Car. 2. c. 24. and 3 & 4 W. 4. c. 27.
Virt. Rep. -	—— c. 10. -	Eyre courts - -	57 Geo. 3. c. 61.
Obs. Virt. Rep.	—— c. 11. -	Mesne process of arrest -	1 & 2 Vict. c. 110. ss. 103, 104.
Virt. Rep. -	—— c. 12. -	Appeal of felony - -	59 Geo. 3. c. 46.
Virt. Rep. -	—— c. 16. -	Wardship - -	12 Car. 2. c. 24.
Obs. Virt. Rep.	—— c. 17. -	Essoins - -	2 & 3 W. 4. c. 39. and 15 & 16 Vict. c. 76.

——	Statutes repealed.	Subject Matter.	Repealing Statute.
	13 Edw. 1. Statute of Westm. 2.		
Virt. Rep. -	—— cc. 20. 21. 22.	Real writs, &c. - -	3 & 4 W. 4. c. 27.
Virt. Rep. -	—— c. 23. -	Action of account - -	15 & 16 Vict. c. 76.
Virt. Rep. -	—— c. 24. -	Writs in consimili casu -	3 & 4 W. 4. c. 27. and 15 & 16 Vict. c. 76.
Virt. Rep. -	—— cc. 25. 26. -	Real writs - -	3 & 4 W. 4. c. 27.
Virt. Rep. -	—— cc. 27. 28. -	Essoins - -	2 & 3 W. 4. c. 39. and 15 & 16 Vict. c. 76.
Obs. Rep. -	—— c. 29. -	Oyer and terminer, and de odio, &c.	9 Geo. 4. c. 31.
Obs. Virt. Rep.	—— cc. 30. 31 -	Jury trials, and bills of exceptions.	6 Geo. 4. c. 50. and 15 & 16 Vict. c. 76.
Obs. Virt. Rep.	—— cc. 32. 33. -	Mortmain - -	12 Car. 2. c. 24., 9 Geo. 2. c. 36., and Mortmain Acts, &c.
Obs. Virt. Rep.	—— c. 34. -	Punishment of rape -	4 & 5 Vict. c. 56. and 5 & 6 Vict. c. 28.
Virt. Rep. -	—— c. 35. - -	Wardship - -	12 Car. 2. c. 24.
Rep. - -	—— c. 38. -	Jurors - - -	6 Geo. 4. c. 50. and 15 & 16 Vict. c. 76.
Virt. Rep. -	—— c. 40. - -	Parole demurrer and warranty.	3 & 4 W. 4. cc. 27. 74., 7 & 8 Vict. c. 76., 8 & 9 Vict. c. 106., and 15 & 16 Vict. c. 76.
Obs. Virt. Rep.	—— c. 41. -	Mortmain and monks -	12 Car. 2. c. 24. and 3 & 4 W. 4. c. 27.
Obs. - -	—— c. 42. - -	Fees of earl marshal's office.	
Obs. - -	—— c. 43. -	Hospitallers and Templars.	
Obs. - -	—— c. 44. - -	Fees of judges' porters, &c.	
Obs. Virt. Rep.	—— c. 46. - -	Commons' enclosures, &c. -	3 & 4 Edw. 6. c. 3., 7 & 8 Geo. 4. c. 27., and 3 & 4 W. 4. c. 27.
Rep. - -	—— c. 47. - -	Taking of salmon - -	1 Geo. 1. stat. 2. c. 18.
Obs. Rep. - -	—— Statute of Winchester.	Police, highways, and felonies	7 Geo. 3. c. 42. and 7 & 8 Geo. 4. c. 27.*
Obs. Virt. Rep.	—— Statutes of the City of London.	Metropolis - - -	6 Anne, c. 68. and 2 & 3 Vict. c. xciv. (local.)
Exp. - -	18 Edw. 1. Another new Statute of quo warranto.	Franchises.	
Virt. Rep. -	20 Edw. 1. Of persons vouched to warranty.	Warranty - - - -	3 & 4 W. 4. cc. 27. 74., 7 & 8 Vict. c. 76., and 8 & 9 Vict. c. 106.
Obs. Virt. Rep.	—— Statute of defending right.	Process, &c. - - -	15 & 16 Vict. c. 76.
Obs. - -	—— Statute of writs for inquisitions, &c.	Mortmain.	
Obs. - -	—— Statute of amortising lands.	Mortmain.	
Rep. - -	21 Edw. 1. Statute of trespassers in parks.	Trespasses, &c. -	7 & 8 Geo. 4. c. 27.
Rep. - -	—— Statute of persons to be put on assizes, &c.	Jurors - - -	6 Geo. 4. c. 50.
Obs. Virt. Rep.	23 Edw. 1. Statute of breaking prisons.	Life and limb -	4 & 5 W. 4. c. 67., 5 & 6 Vict. c. 28., &c.
Rep. - -	25 Edw. 1. Magna carta, c. 26.	Life and limb - -	9 Geo. 4. c. 31.
Rep. - -	—— Forest charter, c. 10.	King's venison - - -	7 & 8 Geo. 4. c. 27.
Obs. - -	—— Sententia, &c. -	Charter breakers.	
Obs. - -	27 Edw. 1. Articles on the forest charter.	Lawing of dogs, &c.	
Virt. Rep. -	—— Statute of fines, c. 1.	Levying of fines - - -	3 & 4 W. 4. cc. 27. 74.
Obs. - -	—— c. 2.	Sheriffs' accounts.	
Obs. - -	—— c. 4.	Nisi prius - - -	2 & 3 Vict. cc. 22. 72., and 15 & 16 Vict. c. 76.
Obs. - -	—— Ordinance of purchasing liberties.	Franchises; lands, &c.	
Rep. - -	—— Statute of false money	Coiners - - -	2 & 3 W. 4. c. 34.
	28 Edw. 1. Articles upon the charters,		
Obs. - -	—— c. 1. - -	Commissioners of the charter.	
Virt. Rep. -	—— c. 2. - -	Purveyors - - -	12 Car. 2. c. 24.

* This last repealing Act reserves so much of the Statute of Winton "as forbids fairs and markets being kept in churchyards," a practice which may now be thought obsolete.

—	Statutes repealed.	Subject Matter.	Repealing Statute.
	28 Edw. 1. Articles upon the charters (*continued*).		
Obs. Virt. Rep.	—— c. 3. - -	Palace and Marshalsea, &c. -	12 & 13 Vict. c. 101.
Obs. Virt. Rep.	—— cc. 4. 5. -	Common law courts, &c. -	2 & 3 W. 4. c. 39.
Virt. Rep. -	—— c. 6. - -	Petty seals not to be used for writs.	14 & 15 Vict. c. 82.
Obs. Virt. Rep.	—— c. 7. - -	Constable of Dover castle -	51 Geo. 3. c. 36 and 6 & 7 W. 4. c. 105.
Obs. - -	—— c. 8. - -	Sheriffs' elections.	
Obs. Rep. -	—— c. 9. - -	Jurors - - -	6 Geo. 4. c. 50.
Obs. - -	—— c. 10. - -	Jurors.	
Obs. - -	—— c. 13. - -	Sheriffs' elections.	
Obs. - -	—— c. 14. - -	Farm of franchises.	
Virt. Rep. -	—— c. 15. - -	Real actions - - -	3 & 4 W. 4. c. 27. and 15 & 16 Vict. c. 76.
Obs. - -	—— c. 17. - -	Statute of Winton enforced	Since 7 & 8 Geo. 4. c. 27.
Virt. Rep. -	—— c. 18. - -	Wardships - - -	12 Car. 2. c. 24.
Obs. - -	—— c. 20. - -	Stamping gold plate.	
Virt. Rep. -	—— Statute for persons appealed.	Appeal of felony - -	59 Geo. 3. c. 46.
Virt. Rep. -	33 Edw. 1. Ordinance for inquests.	Challenges - - -	6 Geo. 4. c. 50. and 9 Geo. 4. c. 53.
Obs. Virt. Rep.	—— Ordinance of the forest.	Free chase, &c. - -	16 Car. 1. c. 16.
Obs. Virt. Rep.	34 Edw. 1. Statute of joint tenants.	Real actions - - -	3 & 4 W. 4. c. 27. and 15 & 16 Vict. c. 76.
Exp. Obs. Virt. Rep.	—— Ordinance of the forest.	Presentments, &c. -	16 Car. 1. c. 16. and 6 Geo. 4. c. 50.
Obs. Virt. Rep.	35 Edw. 1. Statute of Carlisle.	Abbeys - - -	10 Geo. 4. c. 7. s. 28.
Virt. Rep. -	2 Edw. 2. Of the taking undue prises, &c.	Purveyance, &c. - -	12 Car. 2. c. 24.
Obs. Exp. Virt. Rep.	3 Edw. 2. Statute of Stamford.	Purveyance; palace courts, &c.	12 Car. 2. c. 24., 12 & 13 Vict. c. 101., &c. &c.
Rep. - -	5 Edw. 2. New Ordinances -	King's peace; safety; grants, &c.	9 Edw. 2. stat. 2.
Exp. - -	7 Edw. 2. Statute concerning Gaveston's death.	Gaveston.	
Exp. - -	—— Statute concerning his return.	„ „	
	9 Edw. 1. stat. 1. Articles for the clergy,		
Rep. - -	—— c. 3. -	Laying hands on clerks -	9 Geo. 4. c. 31.
Obs. - -	—— c. 4. -	Defamation.	
Obs. - -	—— c. 7. -	Excommunication.	
Obs. - -	—— c. 8. -	Chaplains' residence.	
Obs. - -	—— c. 9. -	Distresses.	
Obs. Rep. -	—— c. 10. -	Sanctuary - -	1 Jac. 1. c. 25. and 21 Jac. 1. c. 28.
Obs. Rep. -	—— c. 11. -	Corodies, &c. - -	12 Car. 2. c. 24.
Obs. - -	—— c. 12. -	Excommunication.	
Obs. - -	—— c. 14. -	Free election.	
Obs. Rep. -	—— c. 15. -	Abjuration - -	1 Jac. 1. c. 25. and 21 Jac. 1. c. 28.
Rep. - -	—— c. 16. -	Benefit of clergy - -	32 Hen. 8. c. 3. and 7 & 8 Geo. 4. c. 28.
Virt. Rep. -	10 Edw. 2. For observing the statute for the clergy.	Purveyance - -	12 Car. 2. c. 24.
	12 Edw. 2. Statute of York,		
Obs. Virt. Rep.	—— cc. 1. to 5. - -	Actions and process -	3 & 4 W. 4. c. 27. and 15 & 16 Vict. c. 76.
Obs. Virt. Rep.	—— c. 6. - - -	Assize of wine and victuals	21 Jac. 1. c. 28. and 7 & 8 Vict. c. 24.
Obs. Virt. Rep.	14 Edw. 2. Statute of Westminster.	Sheriffs' accounts, jurors, &c.	6 Geo. 4. c. 50. and subsequent statutes.
Exp. - -	15 Edw. 2. The exile of the Despensers.	Despensers.	
Exp. - -	—— Statute revoking the pardon of the prisoners, &c.	„ „	
Exp. Obs. -	16 Edw. 2. Statute for estreats	Receipt of exchequer.	
Obs. - -	17 Edw. 2. Ordinance for the state of Ireland.	Tenures, services, customs, process, &c.	
Exp. - -	Statute concerning the lands of the Templars.	Cyprès application of their forfeited lands.	

——	Statutes repealed.	Subject Matter.	Repealing Statute.
	Incerti temporis; regnis Hen. 3., Edw. 1. & Edw. 2. Statutes of the Exchequer.		
Obs. - -	—— cc. 1 to 11. -	Accounts.	
Obs. - -	—— cc. 16. to 18. -	Oaths and accounts.	
Rep. - -	Assize of bread and ale	Assize of bread, &c., and engrossers.	5 Geo. 4. c. 74. and 7 & 8 Vict. c. 24.
Obs. Virt. Rep.	Judgment of the pillory	Pillory and engrossers -	7 W. 4. & 1 Vict. c. 23. and 7 & 8 Vict. c. 24.
Rep. - -	Statute concerning bakers.	Assize of bread, &c. - -	21 Jac. 4. c. 28. and 5 Geo. 4. c. 74.
Virt. Rep. -	Assize of weights and measures.	Weights and measures -	5 Geo. 4. c. 74.
Rep. - -	Statute for the measuring of land.	Land measurement -	5 Geo. 4. c. 74.
Virt. Rep. -	Dies communes -	In bank and dower -	2 & 3 W. 4. c. 39. and 3 & 4 W. c. 27.
Obs. - -	Statutes of Exeter -	Coroner.	
Obs. - -	Statute concerning the sheriff and his clerks.	Sheriff.	
Virt. Rep. -	Manner of levying fines	Fines - - -	3 & 4 W. 4. c. 74.
Virt. Rep. -	Statute concerning fines and attornies.	Fines and attornies - -	3 & 4 W. 4. c. 74. and 6 & 7 Vict. c. 73.
Obs. - -	Statute against allowing protections.	Process.	
Obs. Virt. Rep.	Manner of challenging essoins.	Essoins - -	2 & 3 W. 4. c. 39., 3 & 4 W. 4. c. 27., and 15 & 16 Vict. c. 76.
Obs. Virt. Rep.	Statute for view and essoin.	Essoins - -	„ „
Virt. Rep. -	Statute concerning the great assize and battle.	Real writs - - -	59 Geo. 3. c. 46. and 3 & 4 W. 4. c. 27.
Rep. - -	Statute concerning money.	Coining - - -	2 & 3 W. 4. c. 34.
Rep. - -	Articles concerning money.	Coining - - -	2 & 3 W. 4. c. 34.
Rep. - -	Little statute concerning money.	Coining - - - -	2 & 3 W. 4 c. 34.
Rep. - -	Statute of jewry -	Jews - - -	9 & 10 Vict. c. 59.
Qy. Obs. -	Statute of gavelet -	Rents in London.	
Virt. Rep. -	Statute of the King's prerogative, cc. 1. to 5. and cc. 7. 8. 9. and 15.	Tenures, &c. - -	12 Car. 2. c. 24.
Obs. - -	The manner of doing homage and fealty.	Tenures.	
Obs. Virt. Rep.	Statute concerning wards and reliefs.	Tenures - -	12 Car. 2. c. 24.
Virt. Rep. -	Statute for respiting of knighthood.	Tenures - -	16 Car. 1. c. 20.
Obs. - -	Of the chattels of felons	Forfeiture and restitution.	
Obs. - -	Statutes of arms - -	Tournaments.	
Obs. Virt. Rep.	Statute of oaths of officers in the eyre.	Presentments, &c. - -	57 Geo. 3. c. 61.
Obs. Virt. Rep.	Articles of the eyre -	„ „	„ „
Obs. Virt. Rep.	New articles of the said pleas.	„ „	„ „
Obs. - -	Articles of the escheator.	Tenures, &c.	
Obs. - -	For extending or surveying a manor.	Inquests, &c.	
Obs. Virt. Rep.	Customs and assize of the forest.	Forest law, &c. - -	16 Car. 1. c. 16.
Virt. Rep. -	Articles of inquiry upon the Statute of Winchester.	Felonies, &c. - -	7 & 8 Geo. 4. c. 27.
Obs. - -	View of frankpledge.	Frankpledge.	
Obs. - -	Oath of the sheriff -	Oaths.	
Obs. -	Oath of the bishops -	„	
Obs. - -	Oath of escheators -	„	
Obs. - -	Oath of mayors and bailiffs.	„	
Obs. - -	Abjuration and oath of thieves.	Oaths and abjurations.	

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——	Statutes repealed.	Subject Matter.	Repealing Statutes.
Rep. - -	1 Edw. 6. c. 3. -	Vagrants - - -	3 & 4 Edw. 6. c. 16.
Virt. Rep. -	—— c. 4. -	Tenure of the King - -	12 Car. 2. c. 24.
Rep. - -	—— c. 5. -	Exportation of horses - -	3 Geo. 4. c. 41.
Rep. Obs. -	—— c. 6. -	Worsted in Norfolk - -	3 Geo. 4. c. 41. So much of this Act as perpetuates the 33 Hen. 8. c. 16. is repealed by 3 Geo. 4. c. 41. The rest is obsolete.
Exp. - -	—— c. 8. -	Confirmation of patents.	
Rep. - -	—— c. 11. -	Powers of Crown - -	24 Geo. 2. c. 24. s. 23.
Exp. - -	—— c. 13. -	Subsidy (during King's life).	
Virt. Exp. -	—— c. 15. -	Pardons.	
Obs. - -	2 & 3 Edw. 6. c. 2.	Regulation of soldiers.	
Exp. - -	—— c. 3.	Purveyance (temporary till 1552).	
Exp. - -	—— c. 5.	Remission of certain rents accruing due to the King (for 3 years).	
Obs. - -	—— c. 6.	Admiralty not to sell licences to fish, &c.	
Virt. Exp. -	—— c. 7.	Pensions not to be bought from late monasteries.	
Obs. - -	—— c. 9.	Leather trade - - -	Several attempts to repeal this Statute, but the effect of them has been doubted. See Tyrwhitt and Tyndall's Digest. It is however unquestionably obsolete.
Virt. Rep. -	—— c. 10.	Malt (originally temporary)	By recent Excise Acts. Continued by several Statutes, the last, 3 Car. 1. c. 4. to end of the next session; but all Acts continued by that Act are continued by 16 Car. 1. c. 4. s. 31. "until some other Act be passed touching the continuance or discontinuance of the said Statutes."
Obs. - -	—— c. 11.	Leather trade - - -	See note to chapter 9 above.
Rep. - -	—— c. 14.	Against shooting of hailshot -	6 & 7 W. 3. c. 13.
Rep. - -	—— c. 15.	Victuallers and labourers -	6 Geo. 4. c. 129.
Exp. - -	—— c. 16.	Grants of castles, &c. (during King's life).	
Obs. - -	—— c. 19.	Fasting regulated.	
Rep. - -	—— c. 22.	Customs - - -	3 Geo. 4. c. 41. s. 2.
Rep. - -	—— c. 24.	Murder - - -	7 Geo. 4. c. 64. s. 32.
Rep. - -	—— c. 26.	Exportation of white ashes -	3 Geo. 4. c. 41. s. 10.
Obs. - -	—— c. 27.	Regulations as to forging gadds of steel.	
Virt. Rep. -	—— c. 28.	Fines in the county of Chester -	3 & 4 W. 4. c. 74.
Virt. Rep. -	—— c. 29.	Sodomy - - -	9 Geo. 4. c. 31. s. 15.
Rep. - -	—— c. 33.	Horse-stealing - -	7 & 8 Geo. 4. c. 27.
Exp. - -	—— c. 35.	Subsidy from clergy.	
Exp. - -	—— c. 36.	Relief from laity.	
Rep. - -	—— c. 37.	Export of bell metal - -	3 Geo. 4. c. 41. s. 4.
Obs. - -	—— c. 38.	Paving of Calais.	
Exp. - -	—— c. 39.	Pardons.	
Rep & Obs. -	3 & 4 Edw. 6. c. 2.	Woollen cloth manufacture -	49 Geo. 3. c. 109. The repeal excepts the city of London, but the whole Act is obsolete.
Qy. Obs. -	—— c. 3.	Commons.	
Virt. Exp. -	—— c. 4.	Confirmation of letters patent.	
Exp. - -	—— c. 5.	Unlawful assemblies (to end of next Parliament).	
Exp. - -	—— c. 6.	Leather (to end of next Parliament).	
Obs. - -	—— c. 9.	Leather trade -	See note at 2 & 3 Edw. 6. c. 9.

——	Statutes repealed.	Subject Matter.	Repealing Statutes.
Obs. - -	3 & 4 Edw. 6. c. 10	Missals and images to be destroyed.	This Act was repealed by 1 M. stat. 2. c. 2., which was repealed by 1 Jac. 1. c. 25.
Qy. Exp. -	—— c. 11.	Commissioners to make ecclesiastical laws (for three years).	
Exp. - -	—— c. 12.	Commissioners to settle forms of ordination.	See 5 & 6 Edw. 6. c. 1. s. 4.
Obs. - -	—— c. 15.	Against fond and fantastical prophecies.	
Rep. - -	—— c. 16.	Vagabonds, &c. - - -	14 Eliz. c. 5., 21 Jac. 1. c. 28. s. 11. Doubts whether the 14 Eliz. c. 5. is repealed, and consequently this Act revived or not; but the repeal by 21 Jac. 1. c. 28. s. 11. is obsolete.
Exp. - -	—— c. 17.	Deer-stealing (for three years).	
Exp. - -	—— c. 18.	Rents due to the King (for one year).	
Rep. - -	—— c. 19.	None to buy cattle, but in open market, or resell in same market: no butchers to resell alive.	7 & 8 Vict. c. 24.
Virt. Exp. -	—— c. 20.	Repeal of a clause in 2 & 3 Edw. 6. c. 15., the whole of which act is now repealed, see *ante*.	
Rep. - -	—— c. 21.	Butter and cheese - -	12 Geo. 3. c. 71.
Virt. Rep. & Obs.	—— c. 22.	Labourers - - -	5 Eliz. c. 4.
Exp. - -	—— c. 23.	Relief and subsidy.	
Exp. - -	—— c. 24.	Pardons.	
Virt. Rep. & Obs.	5 & 6 Edw. 6. c. 2.	Beggars - - -	14 Eliz. c. 5. Doubts whether the 14 Eliz. c. 5. is not repealed, and thereby this Act revived.
Rep. - -	—— c. 5.	Tillage - - -	21 Jac. 1. c. 28.
Rep. & Obs. -	—— c. 6.	Woollen cloths - -	49 Geo. 3. c. 109. London excepted from repeal; but the whole Act is obsolete.
Rep. - -	—— c. 7.	Wool - - -	21 Jac. 1. c. 28. s. 11.
Obs. - -	—— c. 8.	Wool.	
Rep. - -	—— c. 9.	Housebreaking - -	7 & 8 Geo. 4. c. 27.
Rep. - -	—— c. 10.	Felonies, benefit of clergy -	7 Geo. 4. c. 44. s. 32.
Virt. Exp. -	—— c. 13.	Late religious and professed persons may take by descent, &c.	
Rep. - -	—— c. 14.	Regrators and forestallers -	12 Geo. 3. c. 71.
Rep. & Obs. -	—— c. 15.	Leather trade - -	3 Geo. 4. c. 41. s. 3., 7 & 8 Vict. c. 24. repeal part; the whole obsolete (qy).
Exp. - -	—— c. 17.	Continuing Act (temporary).	
Rep. - -	—— c. 18.	Customs and navigation -	3 Geo. 4. c. 41.
Rep. - -	—— c. 19.	Gold and silver - -	2 W. 4. c. 34.
Rep. - -	—— c. 20.	Usury - - -	13 Eliz. c. 8.
Rep. - -	—— c. 21.	Tinkers and pedlars - -	1 Jac. 1. c. 25.
Rep. - -	—— c. 22.	Gigg-mills - - -	49 Geo. 3. c. 109.
Obs. - -	—— c. 24.	Hats, &c. in Norwich.	
Rep. - -	—— c. 25.	Alehouses - - -	9 Geo. 4. c. 61. s. 35.
Obs. - -	7 Edw. 6. c. 2. -	Court of Augmentations.	
Virt. Exp. -	—— c. 3. -	Confirmation of patents.	
Rep. & Obs. -	—— c. 5. -	Wines, regulation of price, &c. -	Partly repealed by 1 Jac. 1. c. 25.
Exp. - -	—— c. 6. -	Gold and silver (temporary).	
Rep. & Obs. -	—— c. 7. -	Assise of fuel in London and Westminster.	47 Geo. 3. sess. 2. c. 68. (local) repeals part, and the whole obsolete.
Rep. - -	—— c. 8. -	Making of caps - -	1 Jac. 1. c. 25.
Rep. - -	—— c. 9. -	Cloth in Devon and Cornwall -	27 Eliz. c. 18.
Rep. - -	—— c. 10. -	Gateshead and Newcastle -	1 M. sess. 3. c. 3.
Qy. Exp. -	—— c. 11. -	Continuing Act (temporary) -	See 31 Hen. 8. c. 12. and 32 Hen. 8. c. 11., with reference to the proviso at the end of this Act.
Exp. - -	—— c. 12. -	Subsidy.	
Exp. - -	—— c. 13. -	Subsidy.	
Exp. - -	—— c. 14. -	Pardons.	
Obs. - -	1 M. stat. 2. c. 1. -	Legitimacy of Queen declared.	
Rep. - -	—— c. 2. -	Repeal of Acts of Edw. 6. -	1 Jac. 1. c. 25.
Virt. Rep. -	—— c. 3. -	Disturbance of worship - -	1 Eliz. c. 2.

—	Statutes repealed.	Subject Matter.	Repealing Statutes.
Obs.	1 M. stat. 2. c. 4.	Refers to deeds, &c. purporting to be made in reign of Lady Jane Grey.	
Virt. Rep.	—— c. 5.	Prescription	3 & 4 W. 4. c. 27.
Rep.	—— c. 6.	Coining	2 W. 4. c. 34.
Virt. Rep.	—— c. 7.	Fines	3 & 4 W. 4. c. 74.
Virt. Rep. & Obs.	—— c. 10.	Dissolution of new courts	1 Eliz. c. 4.
Rep.	—— c. 11.	Hats and caps	3 Geo. 4. c. 41. s. 10.
Exp.	—— c. 12.	Unlawful assemblies (to end of next Parliament).	
Exp.	—— c. 13.	Continuing Act (temporary).	
Exp.	—— c. 14.	Continuing Act (temporary).	
Virt. Exp.	—— c. 16.	Attainder of Duke of Northumberland, &c.	
Exp.	—— c. 17.	Subsidy.	
Exp.	—— c. 18.	Subsidy of tonnage and poundage.	
Virt. Exp.	1 M. stat. 3. c. 3.	Queen's marriage.	
Rep.	—— c. 7.	Cloth manufacture	49 Geo. 3. c. 109.
Obs.	—— c. 8.	Leather trade	See note 2 & 3 Edw. 6. c. 9.
Exp.	—— c. 9.	Ordinances of cathedral churches and schools (during Queen's life).	
Exp.	—— c. 12.	Continuing Act (temporary).	
Virt. Exp.	1 & 2 P. & M. c. 1.	Letters patent.	
Rep.	—— c. 2.	Appeal	1 Jac. 1. c. 25. s. 45.
Exp.	—— c. 3.	False news, &c. (temporary).	
Rep. & Obs.	—— c. 4.	Gypsies	1 Geo. 4. c. 116. One section only is repealed, the rest is obsolete, imposing fines and penalties on "Egyptians," and persons bringing them into England.
Rep.	—— c. 5.	Exports	3 Geo. 4. c. 41.
Rep.	—— c. 6.	Heresy	1 Eliz. c. 1.
Obs.	—— c. 7.	Dwellers in the country shall not sell goods by retail in market towns.	
Rep. & Obs.	—— c. 8.		1 Eliz. c. 1. The Stat. of Eliz. c. 1. preserves only so much of this statute "as toucheth or concerneth any matter or case of præmunire."
Exp.	—— c. 9.	Traitorous words against the Queen.	
Qy. Exp.	—— c. 10.	Treason against King or Queen or their issue; and provision for regency during minority of issue, and forgery of great seal, &c.	Query, whether necessary to preserve ss. 8 and 12.
Rep.	—— c. 11.	Counterfeit foreign coins	2 W. 4. c. 34.
Rep.	—— c. 13.	Bail	7 Geo. 4. c. 64. s. 32.
Obs.	—— c. 15.	Lords marchers of Wales.	
Exp.	—— c. 16.	Continuing Statutes (temporary).	
Exp.	2 & 3 P. & M. c. 1.	Border castles (temporary).	
Exp.	—— c. 2.	Husbandry (temporary).	
Rep.	—— c. 3.	Milch kine	12 Geo. 3. c. 71.
Rep.	—— c. 4.	First fruits, &c.	1 Eliz. c. 4.
Exp.	—— c. 5.	Poor (temporary).	
Virt. Rep.	—— c. 6.	Purveyance	12 Car. 2. c. 24.
Rep.	—— c. 8.	Highways	7 Geo. 3. c. 42. s. 57.
Rep.	—— c. 10.	Examination of felons, &c.	7 Geo. 4. c. 64. s. 32.
Rep.	—— c. 11.	Weavers	49 Geo. 3. c. 109.
Rep.	—— c. 12.	Cloth manufacture	49 Geo. 3. c. 109.
Virt. Rep.	—— c. 15.	Purveyance	12 Car. 2. c. 24.
Exp.	—— c. 21.	Continuing statutes (temporary).	
Exp.	—— c. 22.	Subsidy (clergy).	
Exp.	—— c. 23.	Subsidy.	
Virt. Exp.	4 & 5 P. & M. c. 1.	Letters patent confirmation.	
Rep.	—— c. 2.	Armour	1 Jac. 1. c. 25.
Virt. Rep.	—— c. 3.	Militia	42 Geo. 3. c. 90.
Rep.	—— c. 4.	No benefit of clergy in certain felonies.	9 Geo. 4. c. 31.
Rep.	—— c. 5.	Cloth manufacture	49 Geo. 3. c. 109.
Exp.	—— c. 6.	Aliens (only during Queen's life).	
Rep.	—— c. 7.	Juries	6 Geo. 4. c. 50. s. 62.
Rep.	—— c. 8.	Abduction	9 Geo. 4. c. 31.
Exp.	—— c. 9.	Continuing Acts (temporary).	
Exp.	—— c. 10.	Subsidy (clergy).	

——	Statutes repealed.	Subject Matter.	Repealing Statutes.
Exp.	4 & 5 P. & M. c. 11.	Subsidy and fifteenth.	
Virt. Exp.	1 Eliz. c. 3.	Recognition of Queen's title.	
Virt. Exp.	—— c. 5.	Treason, compassing Queen's death, &c.	
Virt. Exp.	—— c. 6.	Seditious words, &c. (limited to Queen Elizabeth and her issue).	
Rep.	—— c. 7.	Conveying horses into Scotland	4 Jac. 1. c. 1.
Obs.	—— c. 8.	Leather trade	5 Eliz. c. 8. Query, if revived by 48 Geo. 3. c. 60. See note 2 & 3 Edw. 6. c. 9.
Obs.	—— c. 9.	Leather trade	5 Eliz. c. 8. Query, if revived by 48 Geo. 3. c. 60. See note 2 & 3 Edw. 6. c. 9.
Rep.	—— c. 10.	Leather trade, exportation made felony.	3 Geo. 4. c. 41. s. 10.
Rep.	—— c. 11.	Customs	6 Geo. 4. c. 105.
Rep.	—— c. 13.	Navigation	3 Geo. 4. c. 41.
Rep.	—— c. 14.	Woollen cloth in Essex	49 Geo. 3. c. 109.
Obs.	—— c. 15.	Timber not to be felled for charcoal for making iron.	
Exp.	—— c. 16.	Unlawful assemblies (for Queen's life).	
Exp.	—— c. 18.	Continuing Act (temporary).	
Exp.	—— c. 20.	Subsidy.	
Exp.	—— c. 21.	Subsidy and fifteenths.	
Virt. Exp.	—— c. 22.	Churches and schools, powers to Queen during her life.	
Virt. Exp.	—— c. 23.	Queen made heritable to her mother.	
Rep.	5 Eliz. c. 2.	Husbandry (temporary)	21 Jac. 1. c. 28.
Rep.	—— c. 3.	Poor (temporary)	14 Eliz. c. 5.
Rep. in part	—— c. 4.	Labourers, &c.	See Report of Commissioners (1835) on Consolidation, p. 53. A great number of the provisions of this Act have been repealed; it is questionable whether those which remain are of any value.
Rep. in part	—— c. 5.	Fisheries and customs	3 Geo. 4. c. 41. repealed in part; 6 Geo. 4. c. 105. repealed in part; the provisions not repealed might now be treated as obsolete.
Exp.	—— c. 6.	Foreign apparel sold to any not having 3,000*l.* a year, except for ready money, price shall not be recoverable (temporary).	
Rep.	—— c. 7.	Protection of trade	3 Geo. 4. c. 41.
Obs.	—— c. 8.	Leather trade	Doubts whether repealed, but certainly obsolete.
Rep.	—— c. 10.	Embezzlement	7 & Geo. 4. c. 27.
Rep.	—— c. 11.	Clipping coins	2 W. 4. c. 34.
Rep.	—— c. 12.	Forestalling, &c.	12 Geo. 3. c. 71.
Rep.	—— c. 13.	Highways	7 Geo. 3. c. 42. s. 57.
Rep.	—— c. 14.	Forgery	11 Geo. 4. & 1 W. 4. c. 66. s. 31.
Obs.	—— c. 15.	Against fond and fantastical prophecies.	
Rep.	—— c. 16.	Against witchcraft	1 Jac. 1. c. 12.
Rep.	—— c. 17.	Sodomy	9 Geo. 4. c. 31.
Virt. Exp.	—— c. 19.	Repeal of part of 1 Edw. 6. c. 5. which is now wholly repealed by 3 Geo. 4. c. 41.	
Rep.	—— c. 20.	Gypsies	23 Geo. 3. c. 51.
Rep.	—— c. 21.	Poachers	7 & 8 Geo. 4. c. 27.
Rep.	—— c. 22.	Exportation of skins	3 Geo. 4. c. 41. s. 4.
Exp.	—— c. 24.	Jails (temporary).	
Rep.	—— c. 25.	Juries	6 Geo. 4. c. 50.
Virt. Rep.	—— c. 27.	Fines in Durham	3 & 4 W. 4. c. 74.
Exp.	—— c. 29.	Subsidy (clergy).	
Virt. Exp.	—— c. 30.	Pardons.	
Exp.	—— c. 31.	Subsidy and fifteenths.	
Virt. Exp.	—— c. 32.	Expenses of Queen's household.	
Rep.	8 Eliz. c. 3.	Exportation of sheep	3 Geo. 4. c. 41. s. 4.
Rep.	—— c. 4.	Felonies, benefit of clergy	7 & 8 Geo. 4. c. 27.
Rep.	—— c. 5.	Court of Delegates	2 & 3 W. 4. c. 92. s. 2.

——	Statutes repealed.	Subject Matter.	Repealing Statutes.
Rep. - -	8 Eliz. c. 6. -	Exportation of cloth - -	3 Geo. 4. c. 41. s. 4.
Obs. - -	—— c. 7. - -	Drapers in Shrewsbury -	Repealed in part, 1 & 2 W. 4. c. 36.; the whole obsolete.
Obs. - -	—— c. 8. -	Stature of horses.	
Obs. - -	—— c. 9. - -	Price of beer - - -	Doubts whether virtually repealed by 5 Geo. 4. c. 74. s. 23.
Obs. - -	—— c. 10. -	Bowyers.	
Rep. - -	—— c. 11. - -	Hats and capts - -	17 Geo. 3. c. 55.
Obs. - -	—— c. 12. -	Cloth in Lancashire.	
Obs. - -	—— c. 14. - -	Leather trade.	
Exp. - -	—— c. 15. -	Destruction of vermin (temporary).	
Exp. - -	—— c. 17. - -	Subsidy (clergy).	
Exp. - -	—— c. 18. -	Fifteenth and tenth.	
Virt. Exp. -	—— c. 19. -	Pardons.	
Virt. Exp. -	—— c. 20. -	Repealing Act.	
Exp. - -	—— c. 21. -	Patent for alum and copperas (temporary).	
Exp. - -	—— c. 22. - -	Patent for salt (temporary).	
Qy. Obs. -	13 Eliz. c. 1. -	Treasons - - -	This Act relates only to denying the title of Queen Elizabeth, &c.; but the 4th section is not necessarily expired.
Exp. - -	—— c. 3. - -	Fugitives (limited to life of Queen).	
Rep. - -	—— c. 7. -	Bankrupts - - -	6 Geo. 4. c. 16.
Virt. Rep. -	—— c. 8. - -	Usury - - -	21 Jac. 1. c. 17.
Rep. - -	—— c. 11. -	Navigation - - -	3 Geo. 4. c. 41.
Virt. Rep. -	—— c. 13. -	Exportation of corn - -	31 Geo. 3. c. 30.
Rep. - -	—— c. 14. -	Bowstaves - - -	3 Geo. 4. c. 41.
Rep. - -	—— c. 15. -	Navigation - -	3 Geo. 4. c. 41.
Virt. Exp. -	—— c. 16. -	Attainder of Earl of Westmorland, &c.	
Exp. Virt. Rep.	—— c. 18. -	Lee River Navigation - -	12 Geo. 2. c. 32. and 7 Geo. 3. c. 51.
Rep. - -	—— c. 19. -	Caps - - -	39 Eliz. c. 18.
Rep. - -	—— c. 20. - -	Leases of benefices - -	43 Geo. 3. c. 84.
Virt. Rep. -	—— c. 21. -	Purveyance - -	12 Car. 2. c. 24.
Qy. Exp. -	—— c. 25. - -	Continuing Act - -	Query, if s. 1. is expired; the Statutes perpetuated by it being repealed or obsolete.
Exp. - -	—— c. 26. -	Subsidy (clergy).	
Exp. - -	—— c. 27. - -	Subsidy and fifteenths.	
Virt. Exp. -	—— c. 28. -	Pardons.	
Exp. - -	14 Eliz. c. 1. -	Treasons (for Queen's life).	
Exp. - -	—— c. 2. - -	Treasons (for Queen's life).	
Rep. - -	—— c. 3. - -	Coining foreign money - -	2 W. 4. c. 34.
Exp. & Rep. -	—— c. 4. -	Leather trade (temporary) -	18 Eliz. c. 9.
Qy. Exp. Rep. & Obs.	—— c. 5. - -	Vagabonds and poor.	
Exp. - -	—— c. 6. -	Fugitives, explanatory of 13 Eliz. c. 3. which is expired.	
Virt. Rep. -	—— c. 8. - -	Recoveries by collusion - -	3 & 4 W. 4. c. 74.
Rep. - -	—— c. 9. - -	Juries - - -	6 Geo. 4. c. 50. s. 62.
Rep. - -	—— c. 10. -	Kersey cloth - - -	3 Jac. 1. c. 16.
Rep. - -	18 Eliz. c. 1. -	Clipping coin - -	2 W. 4. c. 34.
Virt. Exp. -	—— c. 2. - -	Confirmation of letters patent.	
Virt. Exp. -	—— c. 4. - -	Secret conveyances by Earl of Westmorland, &c.	
Rep. - -	—— c. 7. -	Felony, benefit of clergy -	9 Geo. 4. c. 31.
Virt. Rep. -	—— c. 8. -	Justices in Wales - -	11 Geo. 4. & 1 W. 4. c. 70.
Rep. - -	—— c. 9. - -	Exportation of leather - -	3 Geo. 4. c. 41. s. 4.
Rep. - -	—— c. 10. -	Highways - - -	7 Geo. 3. c. 42. s. 57.
Virt. Rep. -	—— c. 13. -	Court of Wards and Liveries in counties palatine.	12 Car. 2. c. 24.
Rep. - -	—— c. 16. -	Clothiers in Wilts, Somerset, and Gloucester.	21 Jac. 1. c. 28. s. 11.
Exp. - -	—— c. 22. -	Subsidy (clergy).	
Exp. - -	—— c. 23. -	Subsidy, fifteenths &c.	
Virt. Exp. -	—— c. 24. -	Pardons.	
Rep. - -	23 Eliz. c. 1. -	Roman Catholics - -	7 & 8 Vict. c. 102.
Exp. - -	—— c. 2. - -	Sedition (for Queen's life).	
Virt. Rep. -	—— c. 3. - -	Errors in fines and recoveries -	3 & 4 W. 4. c. 74.

——	Statutes repealed.	Subject Matter.	Repealing Statutes
Exp. & Rep. -	23 Eliz. c. 4. -	Defence of border (for Queen's life).	4 Jac. 1. c. 1.
Obs. - -	—— c. 5. - -	Wood to make charcoal for iron works not to be cut within 22 miles of London, and no new iron works to be erected within 22 miles of London, nor 14 miles of the Thames, nor four miles of the Downs, or certain towns.	
Rep. - -	—— c. 7. - -	Fisheries, Navigation - -	3 Geo. 4. c. 41. s. 2.
Rep. Obs. -	—— c. 8. - -	Against frauds in wax manufacture.	Repealed in part, 5 Geo. 4. c. 74. s. 23.
Rep. - -	—— c. 9. -	Dyeing cloth - - -	49 Geo. 3. c. 109.
Rep. - -	—— c. 10. -	Preservation of game - -	1 & 2 W. 4. c. 32.
Exp. - -	—— c. 14. - -	Subsidy (clergy).	
Exp. - -	—— c. 15. -	Subsidy and fifteenths.	
Virt. Exp. -	—— c. 16. - -	Pardons.	
Exp. - -	27 Eliz. c. 1. -	Safety of Queen's person.	
Rep. - -	—— c. 2. -	Against jesuits, &c. - -	7 & 8 Vict. c. 102. s. 1.
Rep. - -	—— c. 6. - -	Juries - - -	6 Geo. 4. c. 50. s. 62.
Rep. - -	—— c. 7. -	Juries - - -	6 Geo. 4. c. 50. s. 62.
Virt. Rep. -	—— c. 9. - -	Fines and recoveries - -	3 & 4 W. 4. c. 74.
Exp. - -	—— c. 11. -	Continuing Act (temporary).	
Rep. - -	—— c. 13. -	Hue and cry - -	7 & 8 Geo. 4. c. 27.
Exp. - -	—— c. 14. -	Continuing Act (temporary).	
Exp. - -	—— c. 15. -	Herrings (temporary).	
Exp. - -	—— c. 16. -	Leather trade (temporary).	
Rep. - -	—— c. 17. -	Cloth in Somerset, &c. - -	49 Geo. 3. c. 109.
Rep. - -	—— c. 18. -	Cloth in Devon, &c. - -	49 Geo. 3. c. 109.
Obs. - -	—— c. 19. -	Against felling timber for iron works in Sussex, &c.	
Virt. Rep. -	—— c. 23. -	Cloths in Essex - -	49 Geo. 3. c. 109. s. 5.
Exp. - -	—— c. 28. -	Subsidy (clergy).	
Exp. - -	—— c. 29. -	Subsidy and fifteenths.	
Virt. Exp. -	—— c. 30. -	Pardons.	
Exp. - -	28 [& 29] Eliz. c. 1.	Lord Paget's attainder confirmed.	
Exp. - -	—— c. 2.	Existing records, and writs of error.	
Exp. - -	—— c. 3.	Traitors' fraudulent assurances.	
Obs. Virt. Rep.	—— c. 4.	Sheriffs' fees, &c. - -	7 W. 4. & 1 Vict. c. 55. &c.
Rep. - -	—— c. 6.	Popish recusants - -	9 & 10 Vict. c. 59.
Exp. - -	—— c. 7.	Clergy's subsidy.	
Exp. - -	—— c. 8.	Temporalty's subsidy.	
Exp. - -	—— c. 9.	Queen's general pardon.	
	(And Edward	Fisher's (Private) Act.)	
Virt. Rep. -	31 Eliz. c. 1. -	Discontinuances in error - -	11 Geo. 4. & 1 W. 4. c. 70 and 15 & 16 Vict. c. 76.
Virt. Rep. -	—— c. 2. -	Proclamations on fines - -	3 & 4 W. 4. c. 74. and 11 & 12 Vict. c. 70.
Virt. Rep. -	—— c. 3. -	Outlawries - - -	15 & 16 Vict. c. 76.
Rep. - -	—— c. 4. -	Embezzling of armour, &c. -	7 & 8 Geo. 4. c. 27.
Rep. - -	—— c. 7. -	Coining - - -	43 Eliz. c. 2. and 15 Geo. 3. c. 32.
Virt. Rep. -	—— c. 8. -	Gauging of beer vessels - -	5 Geo. 4. c. 74.
Virt. Rep. -	—— c. 9. -	Durham exigents, &c. - -	15 & 16 Vict. c. 76.
Exp. - -	—— c. 10. -	Acts' continuance.	
Exp. - -	—— c. 13. -	Temporary repair of Dover haven.	
Exp. - -	—— c. 14. -	Clergy's subsidy.	
Exp. - -	—— c. 15. -	Temporalty's subsidy.	
Exp. - -	—— c. 16. -	General pardon.	
	(And 8 Private or Local Acts.)		

—	Statutes repealed.	Subject Matter.	Repealing Statutes.
Rep. - -	35 Eliz. c. 1. -	Queen's subjects' obedience -	7 & 8 Vict. c. 102.
Rep. - -	—— c. 2. -	Recusants' abodes - -	„ „
Exp. - -	—— c. 3. -	Henry 8., his conveyances, &c.	
Exp. - -	—— c. 4. -	Soldiers and mariners' relief.	
Exp. - -	—— c. 5. -	Englefield's lands.	
Exp. Obs. -	—— c. 6. -	Buildings and inclosures.	
Exp. Obs. -	—— c. 7. -	Acts' continuance, &c.	
Obs. Virt. Rep.	—— c. 8. -	Twice-layed cordage - -	6 Geo. 3. c. 45. and later Acts.
Obs. Virt. Rep.	—— c. 9. -	Coloured cloths - -	49 Geo. 3. c. 109.
Obs. Virt. Rep.	—— c. 10. -	Devonshire kersies - -	„ „
Rep. - -	—— c. 11. -	Clapboard and wine casks -	3 Geo. 4. c. 41.
Exp. - -	—— c. 12. -	Clergy's subsidy.	
Exp. - -	—— c. 13. -	Temporalty's subsidy.	
Exp. - -	—— c. 14. -	General pardon.	
	(And 13 Private or Local Acts.)		
Exp. - -	39 [& 40] Eliz. c. 1.	Decay of towns.	
Exp. - -	—— c. 2.	Husbandry and tillage.	
Exp. - -	—— c. 3.	Poor relief.	
Rep. - -	—— c. 4.	Rogues and vagabonds - -	13 Ann. c. 26.
Rep. - -	—— c. 6.	Charitable uses - -	43 Eliz. c. 9.
Exp. - -	—— c. 7.	Queen's debts.	
Exp. - -	—— c. 8.	Church dignitaries' deprivation.	
Rep. - -	—— c. 9.	Offenders' clergy in forcible abduction.	1 Geo. 4. c. 115. and 9 Geo. 4. c. 31.
Rep. - -	—— c. 10.	Navigation - - -	3 Geo. 3. c. 41.
Exp. Obs. Rep.	—— c. 11.	Logwood prohibited - -	14 Car. 3. c. 11. s. 26.
Exp. Obs. -	—— c. 12.	Labourers' wages.	
Virt. Rep -	—— c. 13.	Woollen manufactures - -	49 Geo. 3. c. 109.
Obs. Virt. Rep.	—— c. 14.	Wool cards imported - -	3 Geo. 4. c. 41.
Rep. - -	—— c. 15.	Robbers' clergy - -	7 & 8 Geo. 4. c. 27.
Rep. - -	—— c. 16.	Malt making - - -	9 & 10 W. 3. c. 22.
Exp. Obs. -	—— c. 17.	Vagrants.	
Rep. - -	—— c. 19.	Highways in Sussex, Surrey, and Kent.	7 Geo. 3. c. 42.
Virt. Rep. -	—— c. 20.	Wool manufacturers - -	49 Geo. 3. c. 109.
Exp. - -	—— c. 21.	Soldiers and mariners' relief.	
Qy. Exp. -	—— c. 22.	Possessions of bishoprick of Norwich.	
Exp. - -	—— c. 23.	Newport and Carlion bridges.	
Exp. - -	—— c. 24.	Wilton bridge.	
Exp. Obs. -	—— c. 25.	Beynershe hundred indemnity.	
Exp. - -	—— c. 26.	Clergy's subsidy.	
Exp. - -	—— c. 27.	Temporalty's subsidy.	
Exp. - -	—— c. 28.	General pardon.	
	(And 15 Private or Local Acts.)		
Exp. - -	43 [& 44] Eliz. c. 1.	Queen's grants.	
Exp. - -	—— c. 2.	Poor relief.	
Exp. Obs. -	—— c. 3.	Soldiers and mariners' relief.	
Exp. Obs. Virt. Rep.	—— c. 6.	Frivolous suits at law - -	3 & 4 Vict. c. 24., 9 & 10 Vict. c. 95., 15 & 16 Vict. c. 76., &c.
Rep. - -	—— c. 7.	Misdemeanors - -	7 & 8 Geo. 4. c. 27.
Virt. Rep. -	—— c. 10.	Woollen manufacture - -	49 Geo. 3. c. 109.
Qy. Exp. Obs.	—— c. 11.	Ely, Cambridge, &c. drainage.	
Obs. - -	—— c. 12.	Assurance commissions.	
Rep. - -	—— c. 13.	Northern counties' disturbances -	7 & 8 Geo. 4. c. 27.
Rep. - -	—— c. 14.	Assize of fuel - - -	5 Geo. 4. c. 74.
Rep. - -	—— c. 15.	Chester fines - - -	3 & 4 W. 4. c. 74. and 11 & 12 Vict. c. 70.
Exp. - -	—— c. 16.	Eden bridges.	
Exp. - -	—— c. 17.	Clergy's subsidy.	
Exp. - -	—— c. 18.	Temporalty's subsidy.	
Exp. - -	—— c. 19.	General pardon.	
	(And 10 Private or Local Acts.)		

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—	Statutes repealed.	Subject Matter.	Repealing Statutes
Exp.	12 Car. 2. c. 1	Assembling of the Parliament.	
Exp.	—— c. 2.	Execution of a certain commonwealth ordinance.	
Exp.	—— c. 3.	Continuance of judicial process.	
Exp. Obs. Rep.	—— c. 4.	Tonnage and poundage	6 Geo. 4. c. 105., 3 & 4 W. 4. c. 50., &c.
Exp.	—— c. 5.	Excise continuance.	
Exp.	—— c. 6.	Commissioners of sewers' nomination.	
Qy. Exp.	—— c. 7.	Lord Ormond's restitution.	
Exp.	—— c. 8.	Excise further continuance.	
Exp.	—— c. 9.	Disbanding of forces.	
Exp.	—— c. 10.	Disbanding of forces.	
Exp.	—— c. 11.	General pardon.	
Exp.	—— c. 12.	Judicial proceedings' confirmation.	
Virt. Rep.	—— c. 13.	Usury	13 Ann. c. 15., 5 & 6 W. 4. c. 41., &c.
Exp.	—— c. 15.	Speedy disbanding of army.	
Exp.	—— c. 16.	Soldiers' trades.	
Exp.	—— c. 17.	Ministers' restoration.	
Rep.	—— c. 18.	Navigation	3 Geo. 4. c. 41., 6 Geo. 4. c. 105., &c.
Rep.	—— c. 19.	Customs frauds	6 Geo. 4. c. 105.
Exp.	—— c. 20.	Complete disbanding of forces.	
Exp.	—— c. 21.	Supply.	
	(15 Private or Local Acts.)		
Obs. Virt. Rep.	—— c. 22.	Bay-making regulation	49 Geo. 3. c. 109.
Obs. Virt. Rep.	—— c. 23.	Excise of beer, &c.	5 Geo. 4. c. 74. and 11 Geo. 4. & 1 W. 4. c. 51.
Qy. Obs.	—— c. 24.	Wards' and tenures' abolition, and excise.	Since the modern Excise Acts.
Exp.	—— c. 26.	Twelve months' assessment.	
Exp.	—— c. 27.	Disbanding of army and navy.	
Exp.	—— c. 28.	Disbanding of army and navy.	
Exp.	—— c. 29.	Further supply.	
Exp.	—— c. 30.	Regicides' attainder.	
Exp.	—— c. 31.	Leases and grants' confirmation.	
Obs. Virt. Rep.	—— c. 32.	Wool, &c., exports	3 Geo. 4. c. 41., 6 Geo. 4. c. 105., &c.
Exp.	—— c. 33.	Marriages' confirmation.	
Obs. Virt. Rep.	—— c. 34.	English and Irish tobacco prohibition.	Since 10 Geo. 3. c. 35. and 1 & 2 W. 4. c. 13.
Obs. Virt. Rep.	—— c. 35.	Post-office erection	3 & 4 Vict. c. 96. and 7 & 8 Vict. c. 49.
Virt. Rep.	—— c. 36.	Rolls' estate leases	17 Geo. 3. c. 59. and 7 W. 4. & 1 Vict. c. 46.
	(And 20 Private or Local Acts.)		
	13 Car. 2. stat. 1.		
Exp. Obs.	—— c. 2.	Clerical persons' disability repeal.	
Exp.	—— c. 3.	Public accounts.	
Exp.	—— c. 4.	Present to Charles 2.	
Exp.	—— c. 6.	Militia.	
Exp.	—— c. 7.	Acts' confirmation.	
Exp. Obs.	—— c. 8.	Purveyance for the king.	
Virt. Rep	—— c. 9.	Navy regulation	22 Geo. 2. c. 33. and 19 Geo. 3. c. 17., &c.
Virt. Rep.	—— c. 10.	Deer slaying	7 & 8 Geo. 4. c. 29.
Exp.	—— c. 11.	Acts' continuance.	
Obs.	—— c. 12.	High commission court	See the Church Discipline Acts.
Exp.	—— c. 13.	Arrears of excise.	
Exp.	—— c. 14.	Navigation Act confirmation.	
Exp.	—— c. 15.	Excepted offenders, pains, &c.	
Virt. Rep.	(Not numbered, but printed in the Appendix to 1 Geo. 3. in Pickering's edn.)	Act relating to masters in chancery.	15 & 16 Vict. c. 80.
	(And 17 Private or Local Acts.)		

——	Statutes repealed.	Subject Matter.	Repealing Statutes.
	13 Car. 2. stat. 2.		
Obs. Virt. Rep.	—— c. 1. -	Corporations' government - -	9 Geo. 4. c. 17. and 5 & 6 W. 4. c. 76.
Virt. Rep. -	—— c. 2. -	Vexatious arrests and delays -	1 & 2 Vict. c. 110. and 15 & 16 Vict. c. 76.
Exp. - -	—— c. 3. -	Supply.	
Exp. - -	—— c. 4. -	King Charles's duchy leases.	
	(And 17 Private or Local Acts.)		
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	1 W. & M. stat. 1.		
Exp. Virt. Rep.	—— c. 1. -	Crown and Parliament - -	1 Geo. 1. stat. 2. c. 13. and 6 Geo. 3. c. 53.
Exp. - -	—— c. 2. -	First habeas corpus suspension.	
Exp. - -	—— c. 3. -	Supply.	
Exp. - -	—— c. 4. -	Revivor of process.	
Exp. - -	—— c. 5. -	Annual mutiny.	
Exp. - -	—— c. 7. -	Second habeas corpus suspension.	
Exp. V. R. -	—— c. 8. -	Crown and government - -	1 Geo. 1. stat. 2. c. 13., 6 Geo. 3. c. 53., 31 Geo. 3. c. 32., 57 Geo. 3. c. 92., 1 & 2 W. 4. c. 9., 3 & 4 Vict. c. 52., 6 & 7 Vict. c. 6., 7 & 8 Vict. c. 102., and 9 & 10 Vict. c. 59.
Rep. - -	—— c. 9. -	Amoving of Papists - -	7 & 8 Vict. c. 102.
Exp. - -	—— c. 10. -	Hearth money repeal.	
Virt. Rep. -	—— c. 11. -	Great Yarmouth haven - -	5 & 6 W. 4. c. xlix. (local)
Exp. - -	—— c. 12. -	Corn exportation encouragement.	
Exp. - -	—— c. 13. -	Poll tax, &c.	
Exp. - -	—— c. 14. -	Revenue collection.	
Rep. - -	—— c. 15. -	Papists' disarming - -	7 & 8 Vict. c. 102.
Rep. - -	—— c. 17. -	Papists' amoving Act amendment	„ „
Obs. Virt. Rep.	—— c. 18. -	Protestant dissenters' toleration -	52 Geo. 3. c. 155.
Exp. - -	—— c. 19. -	Third habeas corpus suspension.	
Exp. - -	—— c. 20. -	Supply.	
Virt. Rep. -	—— c. 22. -	Exportation of beer, &c. - -	5 Geo. 4. cc. 74 75.
Virt. Rep. -	—— c. 23. -	Exportation of leather - -	„ „
Virt. Rep. -	—— c. 25. -	Officers' oaths' administration -	57 Geo. 3. c. 92.
Exp. - -	—— c. 27. -	Welsh marches' court abolition.	
Exp. - -	—— c. 28. -	Payment to the States General of the expenses of the revolution of 1688.	
Exp. - -	—— c. 29. -	Irish Protestant clergy relief.	
Exp. - -	—— c. 30. -	Alchemy penalties' repeal.	
Exp. - -	—— c. 31. -	Land tax commissioners.	
Rep. - -	—— c. 32. -	Wool exports and trade - -	6 Geo. 4. c. 105. and 5 & 6 Vict. c. 47.
Rep. - -	—— c. 33. -	Tanned leather - - -	48 Geo. 3. c. 60.
Exp. - -	—— c. 34. -	French trade prohibition.	
	1 W. & M. stat. 2.		
Exp. - -	—— c. 1. -	Supply.	
Exp. - -	—— c. 3. -	Revenue collection.	
Exp. - -	—— c. 4. -	Mutiny.	
Exp. - -	—— c. 5. -	Supply.	
Exp. - -	—— c. 6. -	Coffee, &c., excises' repeal.	
Exp. - -	—— c. 7. -	Poll tax.	
Exp. - -	—— c. 8. -	Vexatious suits' prevention.	
Exp. - -	—— c. 9. -	Irish Protestants' relief.	
	(And 29 Private or Local Acts.)		
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——	Statutes repealed.	Subject Matter.	Repealing Statutes.
Exp.	7 Ann. c. 1.	Annual land tax.	
Exp.	—— c. 2.	Annual recruiting.	
Exp.	—— c. 3.	Annual malt duties, &c.	
Exp.	—— c. 4.	Annual mutiny.	
Virt. Rep.	—— c. 5.	Naturalization of Protestants	6 Geo. 4. c. 67. and 7 & 8 Vict. c. 66.
Exp. Virt. Rep.	—— c. 6.	Cattle in Smithfield	12 Geo. 3. c. 71.
Rep.	—— c. 7.	Whitby piers	7 & 8 Geo. 4. c. lxxviii. (local).
Qy. Exp.	—— c. 8.	Norfolk highways.	
Qy. Exp.	—— c. 10.	Pierrepont's charities.	
Virt. Rep.	—— c. 11.	Scots' salt meats' export allowances.	5 Geo. 4. c. 65. and 6 Geo. 4. c. 105.
Virt. Rep.	—— c. 13.	York woollens	49 Geo. 3. c. 109.
Virt. Rep.	—— c. 15.	Scots exchequer terms	2 & 3 W. 4. c. 54. and 1 & 2 Vict. c. 118.
Exp.	—— c. 16.	Wagers relating to the public.	
Rep.	—— c. 19.	Infant trustees' conveyances	6 Geo. 4. c. 74.
Exp.	—— c. 22.	General pardon.	
Exp.	—— c. 23.	Annual militia.	
Obs. Rep.	—— c. 24.	Coinage encouragement, &c.	27 Geo. 3. c. 13., 56 Geo. 3. c. 68., 6 Geo. 4. c. 105., and 2 & 3 W. 4. c. 34.
Exp.	—— c. 26.	Commissioners for purchase of sites for fortifications.	
Exp.	—— c. 27.	Haddington haven and fort.	
Qy. Exp.	—— c. 28.	Manchester church building.	
Exp.	—— c. 29.	Lord Clanricard's relief.	
Exp. Virt. Rep.	—— c. 30.	Bank of England's capital	56 Geo. 3. c. 98., 59 Geo. 3. c. 76., and 3 & 4 W. 4. c. 98.
Exp. Virt. Rep.	—— c. 31.	Customs and national debt	„ „
Qy. Exp.	—— c. 34.	St. Philip's church, Birmingham.	
	(And 36 Private or Local Acts.)		
Exp.	8 Ann. c. 1.	Annual land tax.	
Obs.	—— c. 2.	Exports' prohibition.	
Exp.	—— c. 3.	Malt, &c. yearly duties.	
Exp. Virt. Rep.	—— c. 4.	Plymouth harbour	51 Geo. 3. c. cxcvi. (local).
Exp.	—— c. 5.	Annual duties and rates, &c.	
Exp.	—— c. 6.	Annual mutiny.	
Exp.	—— c. 7.	Exports' prohibition explanation.	
Qy. Exp.	—— c. 9.	Stoke Goldington roads.	
Exp.	—— c. 10.	Coal duties and lottery.	
Exp. Virt. Rep.	—— c. 11.	Raw silk encouragement	6 Geo. 4. c. 105.
Exp. Virt. Rep.	—— c. 12.	Duties and national debt	56 Geo. 3. c. 98. and 3 & 4 W. 4. c. 98.
Exp.	—— c. 13.	Annual recruiting.	
Exp. Obs.	—— c. 14.	Customs and fees, &c.	
Exp. Obs.	—— c. 15.	Queen's person and government Act explanation.	
Obs.	—— c. 16.	Justiciary and Scots circuits.	
Obs. Rep.	—— c. 17.	Edystone rock lighthouse	6 & 7 W. 4. c. 79.
Exp. Virt. Rep.	—— c. 19.	Assize of bread	3 Geo. 4. c. cvi. (local), 6 & 7 W. 4. c 37., and 7 & 8 Vict. c 24.
Qy. Exp.	—— c. 20.	Sevenoaks, &c. highways.	
Rep.	—— c. 21.	Copyright	5 & 6 Vict. c. 45.
Exp.	—— c. 22.	Militia.	
Qy. Exp.	—— c. 23.	Portsmouth, Chatham, and Harwich fortifications.	
Rep.	—— c. 24.	Hull poor	5 Geo. 4. c. xiii. (local).
Qy. Exp.	—— c. 25.	Fornhill, &c. roads.	
	(And 24 Private or Local Acts.)		

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——	Statutes repealed.	Subject Matter.	Repealing Statutes.
Virt. Exp. -	1 Geo. 1. c. 1. -	Support of Crown.	
Qy. Exp. in part	—— c. 2. -	Land tax.	
Exp. - -	—— c. 3. -	Oaths.	
	1 Geo. 1. stat. 2.		
Exp. - -	—— c. 1. -	Land tax.	
Exp. - -	—— c. 2. -	Malt.	
Exp. - -	—— c. 3. -	Mutiny and desertion.	
Rep. - -	—— c. 4. -	Aliens - - -	7 & 8 Vict. c. 66.
Virt. Exp. -	—— c. 7. -	Blackburn (personal).	
Exp. - -	—— c. 8. -	Habeas corpus.	
Exp. - -	—— c. 9. -	Mutiny and desertion.	
Rep. - -	—— c. 11. -	Highways - - -	7 Geo. 3. c. 42. s. 57.
Exp. - -	—— c. 14. -	Militia.	
Rep. - -	—— c. 15. -	Manufacture of cloth - -	49 Geo. 3. c. 109. and see 1 & 2 W. 4. c. 3. s. 36.
Virt. Exp. -	—— c. 16. -	Lord Bolinbroke (personal).	
Virt. Exp. -	—— c. 17. -	Duke of Ormond (personal).	
Virt. Exp. -	—— c. 22. -	Princess of Wales.	
Exp. - -	—— c. 24. -	Army debts.	
Rep. - -	—— c. 25. -	Crime ; seamen ; navy stores -	11 Geo. 4. & 1 W. 4. c. 20. and 2 & 3 W. 4. c. 40.
Exp. - -	—— c. 29. -	Foreign Protestants.	
Exp. - -	—— c. 30. -	Habeas corpus.	
Exp. - -	—— c. 31. -	Land tax.	
Virt. Exp. -	—— c. 32. -	Lord Drummond (personal).	
Exp. - -	—— c. 33. -	Rebellion of 1715.	
Exp. - -	—— c. 34. -	Mutiny and desertion.	
Exp. - -	—— c. 35. -	Army debts.	
Exp. Virt. Rep.	—— c. 36. -	Malt and excise, &c. ; lotteries -	3 & 4 Vict. c. 49.
Exp. - -	—— c. 37. -	Leases, Prince of Wales.	
Exp. - -	—— c. 39. -	Indemnity ; rebellion.	
Exp. - -	—— c. 40. -	Customs.	
Virt. Rep. -	—— c. 41. -	Local manufactures - -	49 Geo. 3. c. 109.
Virt. Exp. -	—— c. 42. -	Attainder (personal).	
Exp. Rep. -	—— c. 43. -	Coinage duties ; (Qy. senna) ; appropriation.	43 Geo. 3. c. 68.
Rep. - -	—— c. 46. -	Tobacco excise - -	3 & 4 Vict. c. 18.
Virt. Rep. -	—— c. 47. -	Soldiers - - -	31 Geo. 3. c. 32., 37 Geo. 3. c. 70., 10 Geo. 4. c. 7., and 7 W. 4. & 1 Vict. c. 91.
Rep. - -	—— c. 48. -	Trees - - - -	7 & 8 Geo. 4. c. 27.
Exp. - -	—— c. 49. -	Local.	
Rep. - -	—— c. 52. -	Highways - - -	7 Geo. 3. c. 42. s. 57.
Virt. Exp. -	—— c. 53. -	Personal.	
Rep. - -	—— c. 55. -	Papists - - -	31 Geo. 3. c. 32.
	(48 Private or Local Acts.)		
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Exp. Rep. -	1 Geo. 2. c. 1. -	Royal household - -	1 Geo. 2. c. 17.
Exp. - -	—— c. 2. -	South Sea Company.	
Exp. - -	—— c. 3. -	Queen.	
Exp. - -	—— c. 4. -	Personal.	
Exp. - -	—— c. 5. -	Oaths, indemnity.	
	1 Geo. 2. stat. 2.		
Exp. - -	—— c. 1. -	Malt.	
Exp. - -	—— c. 2. -	Mutiny and desertion.	
Exp. - -	—— c. 5. -	Land tax.	
Virt. Exp. -	—— c. 8. -	Navy desertion.	
Exp. Virt. Rep.	—— c. 9. -	Exchequer bills ; navy pay -	11 Geo. 4. & 1 W. 4. c. 20.
Exp. - -	—— c. 13. -	Quarantine.	
Rep. - -	—— c. 14. -	Navy - - -	31 Geo. 2. c. 10.
Virt. Rep. -	—— c. 16. -	Excise - - -	43 Geo. 3. c. 69. and 7 & 8 Geo. 4. c. 53.
Rep. - -	—— c. 17. -	Customs - - -	6 Geo. 4. c. 105. and 7 Geo. 4. c. 48.
Rep. Virt. Rep.	—— c. 19. -	Turnpikes and locks (criminal) -	7 Geo. 3. c. 40. and 7 & 8 Geo. 4. c. 30. s. 12.
Exp. - -	—— c. 23. -	Indemnity.	
	(31 Private or Local Acts.		
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—	Statutes repealed.	Subject Matter.	Repealing Statutes.
Exp. Virt. Rep.	1 Geo. 3. c. 1. -	King's household - - -	27 Geo. 3. c. 13. and other Revenue Acts.
Exp. - -	—— c. 2. -	Annual land tax.	
Exp. - -	—— c. 3. -	Annual duties.	
Exp. - -	—— c. 4. -	Temporary imports from Ireland.	
Exp. - -	—— c. 5. -	George 3. enabled to be governor of the South Sea Company.	
Exp. - -	—— c. 6. -	Mutiny.	
Exp. Virt. Rep.	—— c. 7. -	Duties and National debt -	56 Geo. 3. c. 98. and 3 & 4 W. 4. c. 98.
Exp. - -	—— c. 8. -	Marine mutiny.	
Exp. - -	—— c. 9. -	American sugar trade continuance.	
Exp. - -	—— c. 10. -	Irish tallow duties' discontinuance.	
Exp. - -	—— c. 11. -	Duchy leases of George 3.	
Exp. - -	—— c. 12. -	Annual indemnity.	
Exp. - -	—— c. 13. -	Justices of the peace.	
Exp. Rep. -	—— c. 14. -	Indian courts-martial - -	4 Geo. 4. c. 31.
Exp. -	—— c. 15. -	Keith Earl Marischall's forfeited estates.	
Obs. Rep. -	—— c. 16. -	Coinage duties - - -	27 Geo. 3. c. 13., 56 Geo. 3. 68., and 2 & 3 W. 4. c. 34.
Virt. Rep. -	—— c. 17. -	Insolvent debtors - -	1 & 2 Vict. c. 110.
Exp. - -	—— c. 18. -	Supply.	
Exp. Obs. Rep.	—— c. 19. -	Debt - - - -	56 Geo. 3. c. 98. and 3 & 4 W. 4. c. 98.
Exp. Obs. Rep.	—— c. 20. -	Debt and indemnity - -	" "
Virt. Rep. -	—— c. 21. -	Scots' game preservation - -	58 Geo. 3. c. 75.*
Exp. - -	—— c. 22. -	Militia pay.	
Qy. Exp. -	—— c. 24. -	Dorset roads.	
Qy. Exp. -	—— c. 25. -	Cornwall and Devon roads.	
Qy. Exp. -	—— c. 26. -	Middlesex roads.	
Qy. Exp. -	—— c. 27. -	Cornwall roads.	
Virt. Rep. -	—— c. 28. -	Exeter improvement - -	5 & 6 W. 4. c. 76.
Qy. Exp. -	—— c. 29. -	Somerset roads.	
Qy. Exp. -	—— c. 30. -	Gloucestershire roads.	
Qy. Exp. -	—— c. 31. -	Bath roads.	
Qy. Exp. -	—— c. 32. -	Cornwall roads.	
Qy. Exp. -	—— c. 33. -	Yorkshire roads.	
Qy. Exp. -	—— c. 34. -	Devon roads.	
Qy. Exp. -	—— c. 35. -	Yorkshire roads and Pattrington haven.	
Qy. Exp. -	—— c. 36. -	Warwickshire roads.	
Qy. Exp. -	—— c. 37. -	Wilts roads.	
Qy. Exp. -	—— c. 38. -	Croydon church repair.	
Qy. Exp. -	—— c. 39. -	Staffordshire, Worcestershire, and Warwickshire roads.	
Qy. Exp. -	—— c. 40. -	Kent roads.	
Qy. Exp. -	—— c. 41. -	Yorkshire and Durham roads.	
Qy. Exp. -	—— c. 42. -	Yorkshire roads.	
Qy. Exp. -	—— c. 43. -	Westmorland roads.	
Qy. Exp. -	—— c. 44. -	Whitehaven harbour.	
	(And 47 Private or Local Acts.)		
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	41 Geo. 3. (G. B.)		
Exp. - -	—— c. 1. -	Exportation of rice, 1801.	
Rep. - -	—— c. 2. -	Exportation of provisions -	6 Geo. 4. c. 105.
Exp. - -	—— c. 3. -	Prohibiting, till 1 January 1802, use of corn in distillation of spirits or making of starch.	
Exp. - -	—— c. 4. -	Suspension of hop duty, 1801.	
Exp. - -	—— c. 5. -	Continuing Act.	
Exp. - -	—— c. 6. -	Malt, shortening time for steeping barley (till 25 March 1801).	
Exp. - -	—— c. 7. -	Malt tax.	
Exp. - -	—— c. 8. -	Pensions and snuff.	
Exp. - -	—— c. 10. -	Import of wheat, &c.	
Exp. - -	—— c. 11. -	Import of herrings.	
Exp. - -	—— c. 12. -	Poor.	
Qy. Exp. -	—— c. 14. -	Loans, exchequer bills, supply, appropriation.	
Virt. Exp. -	—— c. 15. -	Census.	

* The repeal of this Act of the 1 Geo. 3. c. 21. was intended by the 15 Geo. 3. c. 54.; but the error of a date—"3 Geo. 3." for "1 Geo. 3."—defeated the intention. Such instances are by no means rare.

——	Statutes repealed.	Subject Matter.	Repealing Statutes.
	41 Geo. 3. (G. B.)		
Rep. - -	—— c. 16. -	Bakers, making bread - - -	41 Geo. 3. (U. K.) c. 2.
Rep. - -	—— c. 17. -	Bakers, sale of bread. - -	42 Geo. 3. c. 4.
Exp. - -	—— c. 18. -	Import of herrings.	
Exp. - -	—— c. 19. -	Bounties, import of wheat, &c.	
Exp. - -	—— c. 20. -	Continuing Act.	
Exp. - -	—— c. 21. -	Salt fish.	
Qy. Virt. Exp.	—— c. 22. -	Commissioners to take accounts in West Indies during war.	
Exp. - -	—— c. 24. -	Continuing Act, aliens.	
Rep. -	—— c. 25. -	Customs, East Indian hemp ·	7 Geo. 4. c. 48.
Exp. - -	—— c. 26. -	Continuing Act.	
Exp. - -	—— c. 27. -	West Indian merchants, extending time for payment of loan.	
Rep. - -	—— c. 28. -	Land tax redemption - - -	42 Geo. 3. c. 116.
Exp. - -	—— c. 29. -	Continuing Act.	
Rep. - -	—— c. 30. -	Quarantine - - -	6 Geo. 4. c. 78.
Exp. - -	—— c. 31. -	Indemnity.	
Exp. - -	—— c. 32. -	Continuing Act, arrest of suspicious persons.	
	(Local and Personal, cc. i. to iv.)		
	41 Geo. 3. (U. K.)		
Exp. - -	—— c. 1. -	Export corn.	
Virt. Exp. -	—— c. 2. -	Repeals 41 Geo. 3. (G. B.) c. 16., flour.	
Qy. Virt. Exp.	—— c. 3. -	National debt, 28,000,000*l.* annuities, consols, and 3*l.* per cent. reduced.	
Virt. Exp. -	—— c. 4. -	Exchequer bills for 1801.	
Virt. Exp. -	—— c. 5. -	Life annuity to Sir Sidney Smith.	
Rep. - -	—— c. 6. -	Militia, Ireland - - -	49 Geo. 3. c. 120.
Rep. - -	—— c. 7. -	Post office - - -	7 W. 4. & 1 Vict. c. 32.
Rep. - -	—— c. 8. -	Customs and excise, paper duties	2 & 3 Vict. c. 23. s. 67.
Rep. - -	—— c. 9. -	Horse duties - - -	43 Geo. 3. c. 161.
Virt. Rep. -	—— c. 10. -	Stamps - - - -	42 Geo. 3. c. 94. s. 7., 44 Geo. 3. c. 98., and 55 Geo. 3. c. 184.
Exp. - -	—— c. 11. -	Mutiny and desertion.	
Rep. - -	—— c. 12. -	Bakers - - - -	59 Geo. 3. c. 36.
Exp. - -	—— c. 13. -	Trade bounties, American flour.	
Exp. - -	—— c. 14. -	Rebellion, Ireland.	
Exp. - -	—— c. 15. -	Suspected persons' detaining, Ireland.	
Exp. - -	—— c. 16. -	Excise, distilling spirits, Ireland.	
Exp. - -	—— c. 17. -	Duties, Ireland, Acts of Irish Parliament continued to 1802.	
Exp. - -	—— c. 18. -	Marines, 1801 to 1802.	
Exp. - -	—— c. 20. -	Commons inclosure.	
Rep. - -	—— c. 21. -	Customs, East India goods -	6 Geo. 4. c. 105.
Exp. - -	—— c. 22. -	Stamps.	
Rep. - -	—— c. 24. -	Criminal, destroying mills -	7 & 8 Geo. 4. c. 27.
Exp. - -	—— c. 26. -	Apprehension of suspected persons.	
Exp. - -	—— c. 27. -	Supply, lottery.	
Rep. - -	—— c. 28. -	Customs - - -	7 Geo. 4. c. 48.
Virt. Rep. -	—— c. 29. -	Excise, spirits imported into and manufactured in Scotland.	43 Geo. 3. c. 69.
Exp. - -	—— c. 30. -	Seditious assemblies.	
Exp. - -	—— c. 31. -	Continuing Act.	
Qy. Virt. Rep.	—— c. 32. -	Provision for payment out of Irish consolidated fund of certain permanent charges.	56 Geo. 3. c. 98.
Rep. - -	—— c. 33. -	Tea duties, import into Ireland -	44 Geo. 3. c. 26.
Exp. - -	—— c. 34. -	Customs, import wheat into Ireland.	
Exp. - -	—— c. 35. -	Army rates to innkeepers.	
Exp. - -	—— c. 36. -	Export and import of provisions from and into Ireland.	
Exp. - -	—— c. 37. -	Import of rice from East Indies into Ireland.	
Rep. - -	—— c. 38. -	Combinations of workmen -	5 Geo. 4. c. 96.
Rep. - -	—— c. 39. -	Forgery, bank notes, bills of exchange, &c.	11 Geo. 4. & 1 W. 4. c. 66.

—	Statutes repealed.	Subject Matter.	Repealing Statutes.
	41 Geo. 3. (U. K.)		
Rep. - -	—— c. 40. -	Horse duty, exemption of clergy	43 Geo. 3. c. 161. s. 84.
Exp. - -	—— c. 41. -	Import of hops into Ireland (temporary).	
Virt. Rep. -	—— c. 42. -	Auction duties, exemption of elephant oil.	8 & 9 Vict. c. 15.
Exp. - -	—— c. 43. -	Militia pay.	
Exp. - -	—— c. 44. -	Exportation of sugars, 1802.	
Exp. - -	—— c. 45. -	Continuing Acts, Ireland.	
Exp. - -	—— c. 46. -	Indemnity, act done in obedience to certain orders in council.	
Exp. - -	—— c. 47. -	Continues and amends an Act of Parliament of Ireland.	
Exp. - -	—— c. 49. -	Indemnity.	
Exp. - -	—— c. 51. -	Import of wine from Portugal.	
Rep. - -	—— c. 53. -	Hides and skins - -	5 Geo. 4. c. 57.
Exp. Virt. Rep.	—— c. 54. -	Continuing and amending Act, customs, Isle of Man.	7 Geo. 4. c. 48. and 8 & 9 Vict. c. 94.
Exp. - -	—— c. 55. -	Militia.	
Exp. - -	—— c. 56. -	Militia.	
Rep. - -	—— c. 57. -	Criminal, forgery, notes and bills	11 Geo. 4. & 1 W. 4. c. 66. s. 31.
Exp. - -	—— c. 60. -	Mr. Rigby and Mr. Kenney's estate (personal).	
Exp. - -	—— c. 61. -	Continuing Act, rebellion, Ireland.	
Virt. Rep. -	—— c. 62. -	Taxes, exemption of Irish peers and members of Parliament.	43 Geo. 3. c. 161. s. 84.
Exp. - -	—— c. 64. -	Insolvent debtors.	
Qy. Virt. Exp.	—— c. 65. -	200,000*l.* towards reduction of annuities to be purchased.	
Exp. - -	—— c. 66. -	Indemnity.	
Exp. Virt. Rep.	—— c. 68. -	Export of copper - -	7 Geo. 4. c. 48.
Rep. - -	—— c. 69. -	Armorial bearings and hair powder duty.	43 Geo. 3. c. 161.
Virt. Exp. -	—— c. 70. -	Insolvent debtors.	
Rep. - -	—— c. 71. -	Horse dealers' tax - -	43 Geo. 3. c. 161.
Rep. - -	—— c. 72. -	Land tax redemption - -	42 Geo. 3. c. 116.
Exp. - -	—— c. 74. -	Exportation of sugar from Ireland.	
Rep. - -	—— c. 75. -	Customs, exportation of tea to Ireland.	6 Geo. 4. c. 105.
Exp. - -	—— c. 77. -	Bounties, Newfoundland fisheries.	
Virt. Exp. -	—— c. 80. -	Indemnity for printing and publishing certain state papers without printer's name.	
Virt. Exp. -	—— c. 81. -	Exchequer bills, loan 2,000,000*l.*	
Virt. Exp. -	—— c. 82. -	Exchequer bills, 6,000,000*l.*	
Virt. Exp. -	—— c. 83. -	Exchequer bills, 3,000,000*l.*	
Virt. Exp. -	—— c. 84. -	Supply and appropriation.	
Rep. - -	—— c. 87. -	Customs, import duty on playing cards.	7 Geo. 4. c. 48.
Rep. - -	—— c. 89. -	Customs, import duty on statues, wrought stone, and marble.	7 Geo. 4. c. 48.
Qy. Virt. Rep. -	—— c. 91. -	Excise, regulations for collection, &c.	7 & 8 Geo. 4. c. 53.
Virt. Exp. -	—— c. 92. -	Import of flour into Ireland.	
Exp. - -	—— c. 93. -	Continuing Acts.	
Exp. - -	—— c. 94. -	Import into Ireland (1808) of rum of British sugar plantations.	
Qy. Exp. -	—— c. 95. -	Trade between Ireland and United States (during treaty of amity with United States.)	
Exp. Rep. -	—— c. 97. -	Continuing Acts, perpetuating part of 27 Geo. 3. c. 31., but perpetuating section (8) repealed.	56 Geo. 3 c. 140 s. 8.
Exp. - -	—— c. 98. -	Militia pay, Ireland.	
Virt. Exp. -	—— c. 99. -	Bounties on fish brought to cities and towns in United Kingdom.	
Exp. - -	—— c. 101.	Parliament, controverted elections, Ireland, 1802.	
Exp. - -	—— c. 102.	Suspending actions under restraining statute, Hen. 8.	
Exp. - -	—— c. 104.	Indemnity.	
Virt. Exp. -	—— c. 106.	Aliens.	
Rep. - -	—— c. 107.	Copyright - - -	5 & 6 Vict. c. 45.
	(146 Local and Personal Acts.)		

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——	Statutes repealed.	Subject Matter.	Repealing Statutes.
	60 Geo. 3. & 1 Geo. 4.		
Exp.	—— c. 2.	Seizing arms.	
Exp.	—— c. 3.	Supply.	
Rep.	—— c. 5.	Factories' registration	1 & 2 W. 4. c. 39.
Exp.	—— c. 6.	Seditious meetings.	
Virt. Rep.	—— c. 7.	Irish election petitions' trial	7 & 8 Vict. c. 103.
Exp.	—— c. 10.	Annual indemnity.	
Virt. Rep.	—— c. 11.	Irish election polls	4 Geo. 4. c. 55., 2 & 3 W. 4. c. 88., 10 & 11 Vict. c. 81., and 13 & 14 Vict. cc. 68. 69.
Exp.	—— c. 12.	Acts' continuance.	
Exp.	—— c. 13.	Mutiny.	
	(And 6 (Public) Local and Personal Acts.)		
Exp.	1 Geo. 4. c. 2.	South Sea Company may choose George 4., &c.	
Exp.	—— c. 3.	Insolvent Acts' continuance.	
Rep.	—— c. 7.	Customs' bonds, oaths, and fees	6 Geo. 4. c. 105.
Rep.	—— c. 8.	American colonies' trade	6 Geo. 4. c. 105.
Rep.	—— c. 9.	Colonial ships' privileges	4 Geo. 4. cc. 41. 79., 8 & 9 Vict. c. 93., and 12 & 13 Vict. c. 29.
Exp.	—— c. 10.	Appropriation.	
Exp.	—— c. 11.	Cape of Good Hope and Mauritius trade.	
Rep.	—— c. 12.	Jamaica trade	3 Geo. 4. c. 44.
Qy. Exp.	—— c. 13.	Supply and debt.	
Rep.	—— c. 14.	Drawbacks and cordage pre-emption.	6 Geo. 4. c. 105. and 3 & 4 W. 4. cc. 50. 56.
Exp.	—— c. 15.	Flax encouragement.	
Exp.	—— c. 16.	Glass excises.	
Qy. Exp.	—— c. 17.	Supply, and debt.	
Exp.	—— c. 18.	Aliens' naturalization.	
Exp.	—— c. 19.	Mutiny.	
Exp.	—— c. 20.	Marine mutiny.	
Exp.	—— c. 23.	Supply.	
Exp.	—— c. 24.	Watch and ward continuance.	
Exp.	—— c. 25.	Sailcloth Act repeal.	
Rep.	—— c. 26.	Irish coasting trade	3 & 4 W. 4. cc. 50. 52.
Rep.	—— c. 28.	Irish coroners	9 & 10 Vict. c. 37.
Exp.	—— c. 30.	Ewart & Co.'s relief.	
Qy.	—— c. 31.	Supply and exchequer bills.	
Rep.	—— c. 32.	Coffee imports, Barbados	3 Geo. 4. c. 44.
Exp.	—— c. 33.	Greenland trade Acts' continuance.	
Rep.	—— c. 34.	Netherlands' trade	6 Geo. 4. c. 105.
Virt. Rep.	—— c. 35.	Equity exchequer offices	5 Vict. c. 5.
Virt. Rep.	—— c. 36.	Borough justices' appeals	5 & 6 W. 4. c. 76. and 13 & 14 Vict. c. 105.
Rep.	—— c. 37.*	Special constables	1 & 2 W. 4. c. 41. and 2 & 3 W. 4. c. 108.
Exp.	—— c. 38.	Soldiers' billets.	
Exp. Virt. Rep.	—— c. 39.	Irish commercial distress	4 Geo. 4. c. 42. and 1 & 2 W. 4. c. 33. s. 103.
Exp.	—— c. 40.	Tithe compensation, for rebellion period.	
Exp.	—— c. 42.	Goldsmid's debt composition.	
Rep.	—— c. 43.	Smuggling	6 Geo. 4. c. 105.
Exp.	—— c. 44.	Supply.	
Rep.	—— c. 45.	Irish and British reciprocal duties	4 Geo. 4. c. 26.
Exp.	—— c. 47.	Irish arms.	
Exp.	—— c. 48.	Irish yeomanry.	
Exp.	—— c. 50.	Slaves' removal licences.	
Exp.	—— c. 51.	St. John's Newfoundland rebuilding and indemnity.	
Exp.	—— c. 52.	American spars' importation.	
Exp.	—— c. 53.	Honduras wood importation.	
Exp.	—— c. 54.	Coals, &c., inland navigation continuance.	
Rep.	—— c. 56.	Malicious damage, &c.	9 Geo. 4. c. 53.
Rep.	—— c. 58.	Paper excises	2 & 3 Vict. c. 23.
Rep.	—— c. 59.	Coffee dealing regulation	4 Geo. 4. c. 24.
Rep.	—— c. 61.	Isle of Man trade	6 Geo. 4. c. 105.

* This Act has been incorrectly stated (Lords' Index) to relate to England alone. But, although it does not specifically exempt Scotland, the language (notwithstanding the general interpretation Act of 7 W. 4. & 1 Vict. c. 39.) makes it clearly inapplicable to other parts of the United Kingdom than England and Wales, (as to which it is repealed by 1 & 2 W. 4. c. 41.), and to Ireland (as to which it is repealed by 2 & 3 W. 4. c. 108.)

—	Statutes repealed.	Subject Matter.	Repealing Statutes.
Exp. - -	1 Geo. 4. c. 62. -	New South Wales duties' continuance.	
Exp. - -	—— c. 63. -	Linens' bounty, &c. continuance.	
Exp. - -	—— c. 64. -	Refined sugars' bounty continuance.	
Exp. - -	—— c. 65. -	Colonial accounts' commission continuance.	
Exp. - -	—— c. 66. -	London magistrate and Thames depredations' continuance.	
Exp. - -	—— c. 67. -	Welsh duties on coals' continuance.	
Qy. - -	—— c. 70. -	Anglesea road Act (Qy. to be reprinted.)	
Rep. - -	—— c. 71. -	New street Act - - -	10 Geo. 4. c. 50.
Exp. - -	—— c. 72. -	Lottery.	
Exp. - -	—— c. 73. -	Assessed taxes compositions' extension and indemnity.	
Exp. - -	—— c. 74. -	Scots' distillation.	
Virt. Rep. -	—— c. 75. -	Unmanufactured tobacco excise -	7 Geo. 4. c. 48.
Exp. - -	—— c. 76. -	Spirits' prohibition repeal.	
Exp. - -	—— c. 77. -	British and Irish spirits' trade continuance.	
Virt. Rep. -	—— c. 78. -	Irish spirits and beer licences -	6 Geo. 4. cc. 80. 81. and 9 Geo. 4. c. 45.
Exp. - -	—— c. 79. -	Irish brewers' allowances.	
Rep. - -	—— c. 80. -	Irish sugar imports - -	6 Geo. 4. c. 105.
Rep. - -	—— c. 82. -	Irish fisheries - - -	5 & 6 Vict. c. 106.
Rep. - -	—— c. 83. -	Irish savings banks - -	9 Geo. 4. c. 92.
Rep. - -	—— c. 84. -	Army prize money - -	2 W. 4. c. 53.
Virt. Rep. -	—— c. 85. -	Naval prize money - -	10 Geo. 4. cc. 25. 26.
Exp. - -	—— c. 86. -	Militia pay.	
Rep. - -	—— c. 88. -	Post horse duties farm - -	4 Geo. 4. c. 62.
Obs. Rep. -	—— c. 89. -	Donaghadee postage - -	3 & 4 Vict. c. 96.
Virt. Rep. -	—— c. 90. -	Maritime offenders' clergy, &c. -	7 & 8 Geo. 4. c. 28., 9 Geo. 4. cc. 31. 54. and 10 Geo. 4. c. 34.
Rep. - -	—— c. 91. -	Marines' personal representatives	2 W. 4. c. 40.
Rep. - -	—— c. 92. -	Forgery of bank notes - -	11 Geo. 4. & 1 W. 4. c. 66.
Exp. - -	—— c. 93. -	Artificers', &c. wages.	
Exp. - -	—— c. 94. -	Census of 1820.	
Exp. - -	—— c. 95. -	Turnpike trusts' inquiry.	
Exp. - -	—— c. 96. -	Irish militia pay.	
Exp. - -	—— c. 97. -	Irish insolvent Acts' continuance.	
Rep. - -	—— c. 98. -	Irish lunatic poor - -	1 & 2 Geo. 4. c. 33.
Exp. - -	—— c. 99. -	East India Company's volunteers.	
Rep. - -	—— c. 102. -	Stealing from mines - -	7 Geo. 4. c. 64. and 9 Geo. 4. c. 53.
Rep. - -	—— c. 103. -	British fisheries - - -	5 Geo. 4. c. 64.
Exp. - -	—— c. 104. -	Regent's park barrack annuity.	
Exp. - -	—— c. 105. -	Aliens' Act continuance.	
Rep. - -	—— c. 106. -	Rolls' estate - - -	7 W. 4. & 1 Vict. c. 46.
Exp. - -	—— c. 107. -	Royal family annuities.	
Exp. - -	—— c. 108. -	Pensions of George 4.	
Qy. - - -	—— c. 110. -	Exchequer bills and supply.	
Exp. - -	—— c. 111. -	Appropriation.	
Exp. - -	—— c. 114. -	Simonds' mortgage power.	
Rep. - -	—— c. 115. -	Capital punishments - -	6 Geo. 4. c. 16., 9 Geo. 4. c. 31., and 7 & 8 Geo. 4. c. 27.
Exp. - -	—— c. 116. -	Capital punishments' repeal.	
Rep. - -	—— c. 117. -	Private stealing, &c. - -	7 & 8 Geo. 4. c. 27.
Exp. - -	—— c. 118. -	Scots' malt duties reduction.	
Rep. - -	—— c. 119. -	Insolvents - - -	7 Geo. 4. c. 57.

(90 (Public) Local and Personal Acts, and 50 Private Acts.)

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Exp. - -	10 Geo. 4. c. 1. -	Catholic association suppression.	
Exp. - -	—— c. 2. -	Annual duties.	
Exp. - -	—— c. 3. -	Supply.	
Qy. Exp. -	—— c. 4. -	Exchequer bills of supply.	
Exp. - -	—— c. 5. -	Marine mutiny.	
Exp. - -	—— c. 6. -	Mutiny.	
Virt. Rep. -	—— c. 8. -	Irish county elections - -	2 & 3 W. 4. c. 88. and 13 & 14 Vict. cc. 68. 69.
Exp. - -	—— c. 9. -	Soldiers' quarters.	

—	Statutes repealed.	Subject Matter.	Repealing Statutes.
Exp.	10 Geo. 4. c. 10.	Militia ballots' suspension.	
Exp.	—— c. 11.	Scots creditors' payment.	
Exp.	—— c. 12.	Annual indemnity.	
Rep.	—— c. 14.	Naval officers' widows' charity	11 Geo. 4. & 1 W. 4. c. 20.
Rep.	—— c. 15.	Naval departments business, &c.	2 & 3 W. 4. c. 40.
Exp. Virt. Rep.	—— c. 16.	East Indian writerships, &c.	3 & 4 W. 4. c. 85.
Exp.	—— c. 17.	Newfoundland fisheries.	
Rep.	—— c. 18.	Lunatics' treatment	2 & 3 W. 4. c. 107. and 8 & 9 Vict. c. 100.
Exp.	—— c. 20.	Claims between Spain and Great Britain.	
Exp.	—— c. 21.	Assessed taxes' compositions.	
Exp.	—— c. 22.	Western Australia government.	
Rep.	—— c. 53.	Silks' duties and drawbacks	3 & 4 W. 4 c. 50.
Exp.	—— c. 28.	Supply.	
Exp.	—— c. 29.	Militia pay.	
Exp.	—— c. 30.	Irish yeomanry.	
Rep.	—— c. 33.	Irish fisheries	5 & 6 Vict. c. 106.
Virt. Rep.	—— c. 35.	Irish mesne process arrest	3 & 4 Vict. c. 105.
Exp.	—— c. 36.	Irish insolvents.	
Exp.	—— c. 39.	Sugar duties.	
Rep.	—— c. 42.	Irish loan societies	6 & 7 Vict. c. 91.
Rep.	—— c. 43.	Customs	3 & 4 W. 4. c. 50.
Rep.	—— c. 45.	Additional metropolitan magistrate.	3 & 4 W. 4. c. 19.
Exp.	—— c. 47.	Irish arms.	
Exp.	—— c. 48.	Irish exchequer funds' transfer.	
Exp.	—— c. 49.	Refining of sugars in warehouse.	
Rep.	—— c. 51.	Factory children	1 & 2 W. 4. c. 39.
Rep.	—— c. 56.	Friendly societies	13 & 14 Vict. c. 115. and 15 & 16 Vict. c. 65.
Exp.	—— c. 57.	Charities' commissions' continuance.	
Exp.	—— c. 60.	Appropriation (Qy. as to exch. bills.)	
Qy. Exp.	—— c. 61.	Marylebone park &c.	
Rep.	—— c. 63.	Factory children	1 & 2 W. 4. c. 39.
	(136 (Public) Local and Personal, and 50 Private Acts.)		
	11 Geo. 4. & 1 W. 4.		
Exp.	—— c. 1.	Disposal of fees under a repealed Act.	
Exp.	—— c. 2.	Supply.	
Exp.	—— c. 3.	Exchequer bills of supply.	
Exp.	—— c. 4.	Appropriation.	
Exp.	—— c. 6.	Annual duties.	
Exp.	—— c. 7.	Mutiny.	
Exp.	—— c. 8.	Marine mutiny.	
Exp.	—— c. 9.	Annual indemnity.	
Virt. Rep.	—— c. 10.	Smugglers' wives' chargeability	3 & 4 W. 4. c. 53., 4 & 5 W. 4. c. 13., and 8 & 9 Vict. c. 84.*
Exp.	—— c. 12.	East Retford indemnity.	
Qy. Exp.	—— c. 14.	Haymarket, Cumberland market, &c.	
Exp.	—— c. 16.	Leather excises' repeal.	
Exp.	—— c. 21.	Irish leases' confirmation.	
Exp.	—— c. 23.	Signature of George 4.	
Exp.	—— c. 25.	Criminals' returns' repeal.	
Rep.	—— c. 27.	Parishes' lighting, &c.	3 & 4 W. 4. c. 90.
Exp.	—— c. 28.	Supply	
Exp.	—— c. 29.	Militia ballots' suspension.	
Exp.	—— c. 30.	Census of 1820–30.	
Exp. Virt. Rep.	—— c. 32.	Irish banking, &c.	1 & 2 Vict. c. 96., 3 & 4 Vict. c. 75., 5 & 6 Vict. c. 85., and 8 & 9 Vict. c. 37.
Exp.	—— c. 33.	Irish insolvents.	
Exp.	—— c. 35.	Assessed taxes' compositions.	
Exp.	—— c. 38.	Insolvent debtors.	
Exp.	—— c. 44.	Irish arms.	

* The first of these Acts consolidates all the laws relating to smuggling. The second repeals so much of the first as authorizes the condemning of offenders to serve in the navy. The third Act repeals both. The chargeability of the wives of such offenders is not expressly provided for by either of the three Acts, nor do they contain any reference to the 11 Geo. 4. & 1 W. 4. c. 10.; but there can be no doubt that they have virtually repealed it.

—	Statutes repealed.	Subject Matter.	Repealing Statutes.
	11 Geo. 4. & 1. W. 4.		
Rep. - -	—— c. 45. -	Crown goods' customs - -	8 & 9 Vict. c. 84.
Rep. - -	—— c. 48. -	Customs on American spirits -	3 & 4 W. 4. c. 50.
Exp. - -	—— c. 50. -	Annual sugars' duty.	
Exp. - -	—— c. 52. -	Militia pay.	
Virt. Rep. -	—— c. 53. -	Quebec government - -	3 & 4 Vict. c. 35.
Rep. - -	—— c. 60. -	Trustees, &c., conveyances -	13 & 14 Vict. c. 60.
Qy. Exp. -	—— c. 62. -	Exchequer bills of supply.	
Exp. - -	—— c. 63. -	Appropriation (Qy. as to exchequer bills.)	
Qy. Exp. -	—— c. 67. -	Holyhead and London roads.	
Exp. - -	—— c. 71. -	Mistaken references' amendment.	
Exp. - -	—— c. 72. -	Refining of sugars in warehouse.	
Exp. - -	—— c. 75. -	Ricketts' insolvency.	
	(138 (Public) Local and Personal, and 50 Private Acts.)		
Exp. - -	1 W. 4. c. 1. -	Supply.	
Exp. - -	—— c. 2. -	Princess Victoria's minority.	
Exp. Obs. -	—— c. 3. -	Essoigns, returns, fines, &c.	
Exp. - -	—— c. 5. -	Supply (Qy. as to exchequer bills.)	
Exp. - -	—— c. 6. -	Commissions' continuance.	
Exp. - -	—— c. 9. -	Supply.	
Exp. - -	—— c. 10. -	Appropriation.	
Qy. Exp. -	—— c. 11. -	Exchequer bills of supply.	
Exp. - -	—— c. 12. -	Annual duties.	
Exp. - -	—— c. 14. -	Marine mutiny.	
Exp. - -	—— c. 15. -	Mutiny.	
Exp. - -	—— c. 16. -	Scots' creditors' payment.	
Exp. - -	—— c. 17. -	Calicoes, &c. duties repeal.	
Exp. - -	—— c. 19. -	Irish census.	
Exp. - -	—— c. 23. -	Annual sugars' duties.	
Rep. - -	—— c. 24. -	British possessions' trade -	3 & 4 W. 4. c. 50.
Exp. - -	—— c. 26. -	Annual indemnity.	
Qy. Exp. -	—— c. 27. -	Old post office sale power.	
	(70 (Public) Local and Personal, and 7 Private Acts.)		
* *	*	* *	* * *
*	* *	* *	* *
	7 W. 4. & 1 Vict.		
Exp. - -	—— c. 1. -	Births', deaths', and marriages' Acts' suspension.	
Exp. Virt. Rep.	—— c. 3. -	Admiralty mails - - -	3 & 4 Vict. c. 96.
Exp. - -	—— c. 4. -	Charities' inquiry.	
Exp. - -	—— c. 6. -	Supply.	
Exp. - - -	—— c. 7. -	Mutiny.	
Exp. - -	—— c. 8. -	Marine mutiny.	
Exp. - -	—— c. 11. -	Supply.	
Exp. - -	—— c. 12. -	Annual indemnity.	
Rep. - - -	—— c. 13. -	Millbank penitentiary - -	6 & 7 Vict. c. 26.
Qy. Exp. - -	—— c. 15. -	Crown manor of Newark discharge.	
Qy. Exp. -	—— c. 16. -	Exchequer bills of supply.	
Exp. - -	—— c. 18. -	Turnpike Acts' continuance.	
Exp. - -	—— c. 27. -	Annual sugars' duties.	
Qy. Exp. -	—— c. 29. -	Common law offices' abolition.	
Exp. - -	—— c. 31. -	Military commissions' continuance.	
Exp. Virt. Rep.	—— c. 32. -	Post office Acts repeal - -	3 & 4 Vict. c. 96.
Rep. - -	—— c. 34. -	Postage duties' regulation - -	3 & 4 Vict. c. 96. s. 68.
Rep. - -	—— c. 35. -	Letters and packets postage free receipt.	„ „
Rep. - -	—— c. 37. -	Metropolitan justice of the peace's office	2 & 3 Vict. c. 71. s. 54.
Qy. Exp. -	—— c. 38. -	Exchequer bills of supply.	
Exp. - -	—— c. 40. -	Scots creditors' payment.	
Exp. - -	—— c. 42. -	New South Wales and Van Diemen's Land government.	
Rep. - -	—— c. 43. -	Irish civil bills - - -	14 & 15 Vict. c. 57.
Qy. Exp. Virt. Rep.	—— c. 51. -	Public works' exchequer bills -	See 5 & 6 Vict. c. 9.
Exp. - -	—— c. 52. -	Militia ballots' suspension.	
Rep. - -	—— c. 56. -	Attornies' and solicitors' regulation	6 & 7 Vict. c. 73.
Exp. - -	—— c. 58. -	Tithe compositions' Act advances' recovery.	
Exp. - -	—— c. 59. -	Bank of Ireland advances' repayment.	

—	Statutes repealed.	Subject Matter.	Repealing Statutes.
	7 W. 4. & 1 Vict.		
Exp. - -	—— c. 62. -	Slave trade treaties' execution.	
Exp. - -	—— c. 63. -	Militia pay.	
Exp. - -	—— c. 65. -	Scots exchequer acts' validity.	
Virt. Rep. -	—— c. 70. -	Nomination of candidates to Haileybury.	16 & 17 Vict. c. .
Exp. - -	—— c. 71. -	Cathedral dignities' appointments' suspension.	
Exp. - -	—— c. 74. -	Irish corporate property alienations' restraint.	
Exp. - -	—— c. 75. -	Church building commission continuance.	
Virt. Rep. -	—— c. 76. -	East India postage - -	3 & 4 Vict. c. 96.
Exp. - -	—— c. 79. -	Appropriation of supply.	
Exp. - - -	—— c. 82. -	Fermanagh baronial subdivisions.	
	(133 (Public) Local and Personal, and 43 Private Acts.)		
Exp. - -	1 & 2 Vict. c. 1. -	Commissions of peace, &c. continued.	
Exp. Virt. Rep.	—— c. 3. -	Slavery abolition compensation	4 & 5 Vict. c. 18. ss. 1. 2.
Rep. - -	—— c. 6. -	Conveyance of prisoners in Ireland	2 & 3 Vict. c. 75. s. 29.
Rep. - -	—— c. 9. -	Government of Lower Canada -	3 & 4 Vict. c. 35.
Exp. - -	—— c. 11. -	Exchequer bills, supply.	
Qy. Exp. -	—— c. 12. -	Exchequer bills, supply.	
Virt. Exp. -	—— c. 13. -	Grand jury presentments, Waterford.	
Virt. Exp. -	—— c. 16. -	Indemnity.	
Exp. - -	—— c. 17. -	Mutiny and desertion.	
Exp. - -	—— c. 18. -	Marines on shore.	
Exp. Virt. Rep.		Slavery compensation, &c. -	4 & 5 Vict. c. 18. ss. 1. 2.
Exp. - -	—— c. 21. -	Supply and appropriation.	
Exp. - -		Oath of allegiance.	
Qy. Virt. Exp.	—— c. 26. -	Exchequer bills, supply.	
Virt. Exp. -	—— c. 33. -	Sugar duties, till July 1839.	
Exp. - -	—— c. 34. -	Continuing Act, Ireland.	
Virt. Rep. -	—— c. 44. -	Excise duty on glass - -	8 & 9 Vict. c. 6.
Exp. - -	—— c. 46. -	Continuing Act, colonial.	
Rep. - -	—— c. 50. -	Continuing Act, 9 Geo. 4. c. 83.	5 & 6 Vict. c. 76. s. 53.
Exp. - -	—— c. 52. -	Continuing Act.	
Rep. - -	—— c. 59. -	International copyright - -	7 & 8 Vict. c. 12.
Rep. - -	—— c. 60. -	Colonial, South Australia - -	5 & 6 Vict. c. 61.
Exp. - -	—— c. 68. -	Continuing Act.	
Rep. - -	—— c. 69. -	Transfer of mortgaged property -	13 & 14 Vict. c. 60.
Exp. - -	—— c. 71. -	Irish arms prohibition.	
Exp. - -	—— c. 72. -	Continuing Act.	
Rep. - -	—— c. 73. -	Continuing Act - -	8 & 9 Vict. c. 100.
Rep. - -	—— c. 76. -	Fisheries (Ireland) - - -	5 & 6 Vict. c. 106.
Rep. - -	—— c. 78. -	Loan societies (Ireland) - -	6 & 7 Vict. c. 91.
Rep. - -	—— c. 79. -	Hackney carriages, drays, &c. in the metropolis.	6 & 7 Vict. c. 86.
Rep. Exp. - -	—— c. 81. -	Advances for public service by bank of Ireland.	3 & 4 Vict. c. 75.
Exp. - -	—— c. 90. -	Militia, suspension of ballots.	
Exp. - -	—— c. 91. -	Pay, &c. of disembodied militia.	
Qy. Exp. - -	—— c. 93. -	Exchequer bills, supply.	
Exp. - -	—— c. 96. -	Proceedings by joint stock companies (temporary, 1839).	
Rep. - -	—— c. 97. -	Postage (Mediterranean) - -	3 & 4 Vict. c. 96. s. 68.
Rep. - -	—— c. 99. -	Fines, penalties, deodands, &c. (Ireland).	6 & 7 Vict. c. 56.
Virt. Rep. -	—— c. 100.	Common law procedure - - -	15 & 16 Vict. c. 76. s. 26. &c.
Exp. - -	—— c. 102.	Slave trade treaties.	
Exp. - -	—— c. 103.	Irish corporate property.	
Exp. - -	—— c. 104.	County Clare (local).	
Qy. Exp. -	—— c. 108.	Visitation, suspension of certain provisions of 6 & 7 W. 4. c. 77.	4 & 5 Vict. c. 89. s. 28.
Exp. - -	—— c. 111.	Annual appropriation.	
Virt. Exp. -	—— c. 112.	Indemnity, colonial.	
Virt. Rep. -	—— c. 113.	Customs - - - -	8 & 9 Vict. c. 84. and 12 & 13 Vict. c. 33.
Rep. - -	—— c. 117.	Public companies deposits -	9 & 10 Vict. c. 20.
	(102 Local and Personal and 35 Private Acts.)		

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Specimens of a Digest of the Law of Distress for Rent by Landlord.

By Mr. Brickdale.

The following sheets contain specimens of a chapter from the Law of Landlord and Tenant, that relating to *distress for rent*, in the forms in which it would probably occur in digests or consolidations of the law made on the following different principles :—

1. A digest of the *statute* law only.
2. A digest of the *whole* law, statute and common, without introducing *any* alteration.
3. A digest of the whole law, in making which the compiler has been authorized to simplify and reconcile (within certain limits) such complex and irregular or exceptional provisions as appear to have become part of the law, without any deliberate intention of the Legislature; and which interfere with the easy application of the general rules of the law to the wants of the public.

After the three parts of the specimens two appendices are added; the first containing all the existing statute law, which has been embodied in the specimens; the second containing the chapter on Distress, from the revised laws of New York.

It has not been thought necessary to digest more of the law than was requisite to produce a specimen from which a conclusion might fairly be drawn. The law which would come under the head of "Replevin," "Remedies of Tenant for improper Distress," "Pound," "Pound-breach," and "Rescue," &c. has, therefore, been omitted.

Although these specimens have been prepared with care, they are necessarily imperfect, because no chapter of a digest can be made complete until the whole law has been subjected to the same process.

Probably some propositions which have been inserted in these specimens would, in a complete digest, be placed under another head; and others may have been omitted as falling under another head, which should have been inserted. It is hoped, however, that they sufficiently resemble the chapters which would be found in a complete digest, to enable the reader to form a judgment of the comparative advantages of the different modes of digesting or consolidating above mentioned.

The extent to which the existing law is departed from in the third part is indicated by the notes to the second part. As a general rule, it has been considered that somewhat more license was allowable in altering the law where it depends on the common law, or decisions, or old statutes, than in cases where it has been fixed by recent statutes. Some of the latter have, therefore, been left untouched, even where a slight alteration would have removed exceptions or anomalies apparently unnecessary.

Some observations on the inferences to be drawn from these specimens are reserved for a separate paper.

M. I. Brickdale.

May 1853.

PART I.

BEING

A Digest of the *Statute Law only.*

What may be distrained.

2 W. & M. sess. 1. c. 5. s. 3.

1. Sheaves or cocks of corn, corn loose or in the straw, and hay, may be distrained; but the same shall not be removed, to the damage of the owner, out of the place where it was found and seized.

11 G. 2. c. 19. s. 8.

2. All sorts of corn and grass, hops, roots, fruits, pulse, or other product whatsoever, which shall be growing on the property in respect of which the rent is due, may be distrained, and for that purpose may be cut, gathered, made, cured, carried, and laid up, and the same shall be laid up in the barns or other proper place on the property; and if there be none such, in any other barn or proper place, as near as may be to the property, which the landlord shall hire or procure; and the appraisement thereof for sale shall be taken when cut, gathered, cured, and made, and not before.

11 G. 2. c. 19. s. 9.

3. Provided that when any such distress as authorized by the preceding section has been made, notice of the place where the goods and chattels so distrained are lodged or deposited shall be given to the tenant, or left at his last place of abode, within one week after such lodging or depositing; and if after any distress of growing corn, grass, hops, roots, fruits, pulse, or other products as aforesaid, and before the same shall be ripe and cut, cured or gathered, the tenant shall pay or tender the whole rent then in arrear, with the full costs of making such distress, then such distress shall cease.

14 & 15 Vict. c. 25. s. 2.

4. Growing crops, which have been seized by the sheriff or other officer in execution, and sold, may, in default of sufficient distress of the goods and chattels of the tenant, be distrained for rent accrued due after such seizure and sale.

Husband empowered to distrain for Arrears after Death of his Wife.

32 Hen. 8. c. 37. s. 3.

5. A husband may, after the death of his wife, distrain for arrears of rent due in respect of any estate of freehold, of which he was seised or possessed in right of his wife, in like manner as he might have done if his wife were living.

Executors and Tenants pur autre vie empowered to distrain for Arrears.

3 & 4 W. 4. c. 42. s. 37.

6. The executors or administrators of any landlord may distrain for any arrears of rent due to such landlord in his lifetime, in like manner as such landlord might have done in his lifetime.

32 Hen. 8. c. 37. s. 4.

And a landlord who held *pur autre vie* may distrain after the death of the *cestui qui vie*, in like manner as he might have done if the *cestui qui vie* were still alive.

Distress after Termination of Tenancy.

8 Ann. c. 14. ss. 6, 7. 3 & 4 W. 4. c. 42. s. 38.

7. A distress may be made at any time within six months after the determination of the estate or interest of the tenant, provided the landlord's title and the tenant's possession are still continuing; or, in the case of a distress by executors or administrators by force of the 6th section, provided the possession of the tenant only be still continuing.

Goods taken in Execution, Landlord to be paid Arrears of Rent.

8 Ann. c. 14. s. 1. 11 G. 4. c. 11. 7 & 8 Vict. c. 96. s. 67. 9 & 10 Vict. c. 95. s. 107. 13 & 14 Vict. c. 61, 20.

8. No goods or chattels shall be liable to be taken in execution under the process of any court of law, unless the party at whose suit the execution is sued out shall, before the removal of such goods or chattels, pay to the landlord the arrears of rent due at the time of the taking, but in no case exceeding one year's

rent; and where the tenement shall have been let for any term less than a quarter of a year, not exceeding the rent accrued due for four such terms. This section does not extend to an extent at the suit of the Crown, nor to the case of any goods taken in execution under the process of any county court.

9. The landlord of any tenement in which any goods shall be taken in execution under the process of any county court shall be entitled, by any writing under his hand or under the hand of his agent, to be delivered to the bailiff or officer making the levy, (which writing shall state the amount of the rent claimed to be in arrear, and the time in respect of which such rent is claimed to be due, *in like manner as is required by law in cases of ordinary distress for rent**), to claim any rent in arrear then due to him, not exceeding the rent of four weeks where the tenement is let by the week, and not exceeding the rent accruing due in two terms of payment where the tenement is let for any other term less than a year, and not exceeding in any case the rent accruing due in one year; and in case any such claim shall be made, no execution creditor shall be satisfied his debt out of the proceeds of any execution or distress until the landlord claiming as aforesaid shall have been paid such arrears of rent as aforesaid. 9 & 10 Vict. c. 95. s. 107. 13 & 14 Vict. c. 61. s. 62.

[This provision does not strictly come under the title Distress, as the landlord is not empowered to recover his year's rent by means of that process. It is, however, so nearly connected with the subject, that it is thought desirable to insert it here.]

Second Distress.

10. In cases where it has been found by a jury, under the provisions of the 2d or 3d sections of the 7th chapter of the statutes of the 17th year of King Charles the 2d, that the value of the cattle distrained was not equal to the value of the arrears distrained for, the landlord, his executors or administrators, may from time to time distrain again for the residue of the said arrears. 17 Car. 2. c. 7. s. 4.

[The reference to the provisions of the statute of Car. 2. would of course be made in another form in a complete digest.]

Exemptions from Distress.

11. No man shall be distrained by his beasts that gain his land, nor by his sheep, unless there be no other sufficient distress. 51 Hen. 3. stat. 4.

12. No goods or chattels may be taken for a distress on the highway, nor on any land except the land charged with the rent distrained for; 52 Hen. 3. (Marlebridge) c. 15.

[Query, it is said that this is a rule of common law, and that the above enactment does not relate to rents reserved on leases. See Coote's Landlord and Tenant, p. 445, *n.*]

But cattle or stock belonging to the tenant depasturing on any common in any way appurtenant to any part of the same land are considered to be on the land; and this section does not extend to goods or chattels fraudulently removed, as mentioned in the 27th section. 11 G. 2. c. 19. s. 8.

13. All distresses of the goods or chattels of any ambassador or other public minister of any foreign prince or state, authorized and received as such by the Crown, or the domestic or domestic servant of any such ambassador or other public minister, shall be utterly null and void. 7 Ann. c. 12. s. 3.

14. No crops or produce which have been taken in execution and afterwards sold by the sheriff to a person who has agreed to use and expend the same on the land, according to the provisions of the 50th chapter of the statutes of the 56th year of George the 3d, nor any animals or implements of husbandry which shall be kept or used for the purposes of consuming or operating upon any such crops or produce, shall be distrained for any rent.† 56 G. 3. c. 50. s. 6.

[See the observation appended to section 10.]

15. No frame, loom, or machine, materials, tools, or apparatus, which shall be intrusted for the purpose of being used or worked in the manufacture of woollen, worsted, linen, cotton, flax, mohair, or silk, or any work connected therewith or incidental thereto, or any parts, branches, or processes thereof, whether rented or taken by the hire or not, shall be liable to be distrained for rent, unless due by the owner thereof. 6 & 7 Vict. c. 40. s. 18.

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* No such notice is required by law *at all* in the case of *ordinary* distress; and in the case of *sale* of a distress, under the 2 W. & M. sess. 1. c. 5. it is only necessary to state "the cause of the taking."

† Query, whether 14 & 15 Vict. c. 25. s. 2. affects this as to growing crops, *ante*, section 4.

Insolvency.

7 & 8 Vict. c. 96. s. 18.

16. No distress for rent, made and levied after the filing of any petition for protection from process by an insolvent debtor, upon the goods or chattels of the petitioner, shall be available for more than one year's rent accrued prior to the filing of such petition.

Bankruptcy.

12 & 13 Vict. c. 102. s. 129.

16. No distress for rent, made and levied after an act of bankruptcy by the tenant, shall be available for more than one year's rent accrued prior to the date of the filing of a petition for adjudication of bankruptcy.

Impounding, &c.

52 Hen. 3. (Marlebridge) c. 4.
3 Edw. 1. (Westminster, first) c. 16.

17. No distress shall be driven out of the county where it was taken.

1 & 2 P. & M. c. 12. s. 1.

18. No distress of cattle shall be driven out of the hundred, rape, wapentake, or lathe where it was taken, except it be to a pound overt within the same shire, not above three miles from the place where the distress was taken.

1 & 2 P. & M. c. 12. s. 1.

19. No cattle or other goods distrained at one time shall be impounded in several places, whereby the owner of such distress shall be constrained to sue several replevins.

1 & 2 P. & M. c. 12. s. 2.

20. No person shall take for keeping in pound, impounding, or poundage of any manner of distress above the sum of fourpence for any one whole distress, nor more than has been used.

[See also as to impounding, the Cruelty to Animals Act, 12 & 13 Vict. c. 9. ss. 5, 6.]

Impounding and Sale on the Property.

11 G. 2. c. 19. s. 10.

21. Any distress may be impounded or secured on any convenient part of the property charged with the rent distrained for.

Sale of Distress.

2 W. & M. sess. 1. c. 5. s. 2.

22. If the owner of any distress shall not replevy the same within five days after the giving of such notice as herein-after mentioned, the landlord shall *and may*, within a reasonable time after such five days, with the sheriff or under sheriff, or with the constable of the place, cause the distress to be appraised by two sworn appraisers; and after such appraisement shall sell the same, and apply the proceeds in satisfaction of the rent due, and of the charges of the distress, appraisement, and sale, leaving the overplus (if any) in the hands of the sheriff, under sheriff, or constable for the owner's use.

2 W. & M. sess. 1. c. 5. s. 2.

23. The notice mentioned in the preceding section shall contain a statement of the cause of the distress, and shall be given to the owner or tenant of the goods distrained, *personally*,* or left at the chief mansion house or other most notorious place on the property charged with the rent distrained for.

11 G. 2. c. 19. s. 10.

24. Any such sale as herein-before mentioned may be made on any convenient part of the property where the distress was seized; and it shall be lawful for all persons to come and go to and from such part in order to view, appraise, sell, buy, or remove the same.

Expenses of Distress.

57 G. 2. c. 93. s. 6.

25. Every person making a distress shall give a copy of his charges (if any) to the tenant distrained on.

57 G. 3. c. 93. s. 1.

26. In cases where the sum demanded and due for rent shall not exceed 20*l.*, no person or persons making or employed in making a distress shall be entitled to demand or take, either from the landlord or the tenant or any other person, any greater costs or charges than those set forth in the schedule to this section, nor to charge for any act or service unless really done.

The Schedule of Charges.

(As in 57 Geo. 3. c. 93.)

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* Coote, L. & T. 479. The statute is held to be satisfied by *personal* service.

Fraudulent Removal of Goods, &c.

27. If a tenant shall fraudulently convey away any of his goods or chattels from the property of which he is tenant, in order to prevent the landlord from distraining for arrears of rent then due, it shall be lawful for the landlord, within thirty days next after such conveying away, to seize such goods or chattels wherever found, and dispose thereof as an ordinary distress; unless the same shall in the meantime have been sold in good faith, and for a valuable consideration. 11 G. 2. c. 19. s. 12.

28. It shall be lawful for the landlord, with the assistance of the constable, headborough, borsholder, or other peace officer of the place, in the day-time, to break open any house, building, or place in which any goods or chattels fraudulently carried away, as mentioned in the preceding section, shall be; but, in the case of a dwelling house, first making oath before a justice that he has reasonable ground to suspect that such goods or chattels are therein. 11 G. 2. c. 19. s. 1.

29. All tenants fraudulently carrying away goods or chattels as mentioned in the two preceding sections, and all persons wilfully and knowingly aiding any tenant in such fraudulent carrying away of goods or chattels, or in concealing the same, shall forfeit to the landlord double the value of the goods. 11 G. 2. c. 19. s. 3.

Limitation as to Time.

30. No arrears of rent shall be recovered by distress but within six years next after the same became due, or next after an acknowledgment in writing that the same is due. 3 & 4 W. 4. c. 27. s. 42.

PART II.

BEING

A Digest of the whole existing Law, *unaltered*.

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1. Subject to the limitations and conditions contained in this chapter, every landlord may recover any rent due by way of distress. A distress must not be excessive.

2. To authorize a distress the rent must have become due under an actual demise at law, and must have been a fixed rent.

3. A landlord may distrain either in person or by his agent.

4. The person or persons entitled to distrain as landlord for arrears of rent due and payable to him or them, are—

3 & 4 W. 4. c. 42.
The immediate reversioner.

32 Hen. 8. c. 57. s. 3.
The executors or administrators of a deceased reversioner.

A husband entitled in right of his wife, after the wife's decease.

32 Hen. 8. c. 57. s. 4.
A tenant *pur autre vie* whose estate has ceased by the death of the *cestui qui vie*.

[This and the four following sections may be reduced to a single rule with scarcely any alteration of the law. See section 4 of Part III.]

5. Any one joint tenant may distrain alone for the whole rent due.

6. Coparceners and coheirs in gavelkind must all join in making a distress.

7. A tenant in common may distrain only for the share of rent due to him.

8. A husband may distrain alone for rent accrued due during coverture from land of his wife.

8 Ann. c. 14. s. 6.
9. A distress by the reversioner must be made during the continuance of the estate or interest of the tenant, or within six months after its determination, the possession of the tenant, his executors or administrators, of the whole or some part of the land, and the title or interest of the landlord, being both continuing.

3 & 4 W. 4. c. 42.
10. A distress by the executors or administrators of a reversioner, not being themselves the reversioners, must be made during the continuance of the estate or interest of the tenant, or within six months after its determination, the possession of the tenant, his executors or administrators, of the whole or some part of the land being continuing.*

[See section 5 of Part III. It is proposed to make the rules contained in this and the preceding section uniform as to *all*. There seems to be no reason why it should be required that the title of the party distraining should be continuing; and the unlimited powers of husband and tenant *pur autre vie* (if existing) appear to be an oversight.]

3 & 4 W. 4. c. 27. s. 42.
11. No arrears of rent shall in any case be recovered by distress but within *six years* next after the same shall have become due, or next after an acknowledgment of the same in writing.†

12. A distress must be made after sunrise and before sunset.

13. A distress must be made upon some part of the land out of which the rent distrained for issued, except in the cases herein-after specified.

11 G. 2. c. 19. s. 8.
14. Cattle belonging to the tenant depasturing on any common in any way

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* The limit of six months, and the rule as to possession of the tenant, do not seem to extend to the cases of *husband* and *tenant pur autre vie*. At least it is doubtful whether the 8 Ann. c. 14. s. 6. extends to these cases.

† It has been held that the 2d section of the 3 & 4 W. 4. c. 27. does not apply to rent reserved on a lease. Grant v. Ellis, 9 Meeson and Welsby, 113.

appendant or appurtenant to the land out of which the rent distrained for issued, may be taken for distress.

[Query, as to cattle taken by the tenant by way of agistment? See sections 7 and 9 of Part III.]

15. Where any tenant shall fraudulently convey away any of his goods or chattels after the rent became due,* to prevent the landlord from distraining the same, the landlord may within 30 days next ensuing such conveying away seize such goods or chattels wherever found; provided they have not in the meantime been sold in good faith for a valuable consideration. 11 G. 2. c. 19. s. 1.

[It appears to have been held that a fraudulent removal the night before the rent became due is not within the statute. This is remedied in section 7 of Part III.]

16. A removal of goods or chattels is not deemed fraudulent where sufficient goods or chattels are left on the property out of which the rent is issuing to satisfy all arrears of rent.

[It is presumed that the removal would not be fraudulent only where there are sufficient goods *belonging to the tenant* left. This addition is therefore made in section 7 of Part III.]

17. All tenants fraudulently conveying away goods or chattels, as mentioned in section 15, and all persons wilfully and knowingly aiding any tenant in such fraudulent conveying away, or in concealing such goods or chattels, shall forfeit to the landlord double the value of such goods or chattels.† 11 G. 2. c. 19.

[See "*Procedure.*"]

18. Except as herein-after specified, every kind of personal property which may be found on the land out of which the rent is issuing may be taken as a distress, whether belonging to the tenant or to any other person; but the provisions contained in section 15, respecting goods and chattels fraudulently conveyed away, extend to goods and chattels belonging to the tenant only.

[Sections 7 to 17 of Part III. contain an attempt to reduce the scattered cases contained in this and the following sections to some general principles. Some of the exemptions now existing appear quite unnecessary at present, and it is proposed to omit them; they will be noticed as they occur. With respect to those which it appears convenient and reasonable to retain, some slight alterations of the actual law have been unavoidably introduced in the endeavour to refer the individual cases which have been decided, to general principles; but it is believed that none of the alterations are such as could be seriously objected to.]

19. All things affixed to the freehold, and all things commonly affixed to the freehold, if removed for a temporary purpose only, are generally exempt from being taken in distress, but with the exceptions contained in the next section.‡

[With respect to fixtures, a simple rule may be introduced by making all liable to seizure which the tenant might lawfully remove. See section 7 of Part III.]

20. All sorts of corn and grass, hops, roots, fruits, pulse, or other product whatsoever which shall be growing on any part of the land, may be seized for distress, and may be cut, gathered, made, cured, and laid up, when ripe; but subject to the four conditions following:—1st. They are to be laid up in suitable places on the land, or if there be none on the land, then as near thereto as may be. 2d. The appraisement for sale shall be made when the articles are cut, gathered, cured, and made, and not before. 3d. Notice of the place where laid up shall within one week after the laying up be given to the tenant, or left at his last place of abode. 4th. If at any time after the seizing, and before the articles shall be ripe, and cut, cured, or gathered, the tenant, his executors, administrators, or assigns, shall pay the whole rent then in arrear, together with the full costs of making the distress or occasioned thereby, then the distress shall absolutely cease. The exceptions contained in this section do not extend to trees growing in a nursery ground. 11 G. 2. c. 19. s. 8.

[There seems no good reason why the rules as to the impounding and the notice of the seizure of growing crops should be different from

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* Coote, Landlord and Tenant, 446.

† Special provisions are made by the act for recovering this penalty.

‡ Doubts whether machinery fixed in a factory by bolts is exempt. See Coote, L. & T. 449.

those for other chattels. If it is proper that the tenant should have notice of the place where his goods are impounded, the rule should be extended to all goods. See section 38 of Part III.; and as regards impounding, see sections 30 to 35 of Part III., which contain provisions applicable to all goods and chattels alike. It is proposed to omit the exception in favour of plants in a nursery ground, as there seems no reason why the landlord should not seize them if they are the tenant's property.]

21. Things which are themselves the subject of the demise are exempt from being taken in distress.

22. Animals *feræ naturæ*, in which the tenant has no valuable property, are exempt from being taken in distress.

[It is proposed to omit this exception, as no reason appears why a landlord should be debarred from seizing whatever he thinks worth seizing.]

23. Things lying loose so that they cannot with certainty be identified,* and things which cannot be returned to the owner in as good a condition as they were taken in, are generally exempt from being taken for distress, but with the following exceptions: sheaves or cocks of corn, or corn loose or in the straw, or hay, may be taken for distress, and locked up or detained in the place where found. But the same may not be removed, to the damage of the owner thereof, out of the place where found, but shall be kept there as impounded until replevied or sold.†

2 W. & M. sess. 1. c. 5. s. 2.

[The whole doctrine that things lying loose (including even money), and things perishable, could not be taken in distress, arose from the old nature of the remedy, which was only the taking of a *pledge* to be kept till replevied. But now that the landlord is empowered to pay himself by selling the distress, and that remedy is the only one commonly used, these exceptions become unnecessary, and it is proposed to abolish them. Nothing can be more convenient to seize than *money*, and it is proposed to empower the landlord to apply cash or bank notes immediately to the discharge of his debt. See sections 7 and 37 of Part III. It appears, however, proper to exempt from seizure all securities for money, bills of exchange, deeds, &c. See section 17 of Part III.

With respect to perishable goods, it is proposed to empower the landlord to sell forthwith such as cannot be kept for the five days. See section 41 of Part III.]

24. Things which have been delivered either actually or constructively to the tenant to be wrought, kept, carried, or dealt with in the way of his trade, are generally exempt from being taken in distress, but with the following exceptions:‡ With respect to goods and chattels belonging to an ordinary guest at an inn, they must be kept at the inn itself or in its immediate outbuildings, or they will not be exempt.§ Horses or carriages standing at a livery stable are not exempt.‖ Machines or tools necessary to enable a workman to work up materials delivered to him, and lent to him for that purpose, are not exempt.¶ Things necessary to enable a purchaser to keep and use goods sold, and left with them for that purpose, are not exempt.** Cattle on the land for the purpose of agistment are not exempt, except cattle on a journey, and put on the land for a single night.††

[The principle to which the exemptions in this section ought to be referred is, that in these cases the landlord cannot reasonably complain of being deceived as to the solvency of his tenant by the presence of the

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* It is held that *loose money*, meal, &c. cannot be distrained; Coote, 452.

† It seems that many kinds of farm produce, after being gathered, are still not liable to distress: turnips or other roots, &c. for instance.

‡ It is scarcely possible to arrange the established law on this subject into anything like systematic principles.

§ A horse of a guest sent to a stable belonging to the inn, but half a mile off, held liable to be taken; Coote, 453.

‖ Ib. semble.

¶ See 2 Wms. Saunders, 290. (Stocking frame lent to a weaver held liable.)

** Ib. (Barrels sent to a public house with beer held liable.)

†† Semble. See 2 Wms. Saund. 290. Goods put in the warehouse of a wharfinger are exempt; but doubtful whether every warehouse comes within this rule.

goods on the land, nor of being unable to distinguish between the goods of his tenant and those of strangers. Section 9 of Part III. is an attempt to frame a rule which shall embody some such principle; it is believed that it will not materially alter the existing law, and that such alterations as it does make will be beneficial.]

25. Things already in the custody of the law by way of distress or execution are generally exempt from being taken in distress, as well in the hands of the officer or other person by whom they have been seized, as of his vendee; but with the following exceptions: 1. The exemption continues for the benefit of a purchaser only for a reasonable time, to enable him to remove the goods or chattels. 2. When growing crops have been seized and sold in execution, the same, in default of sufficient distress of the goods and chattels of the tenant, are liable to be taken in distress for rent accrued due after such seizure and sale. 3. The exemption does not extend to the title of assignees in bankruptcy and insolvency, respecting which provision is herein-after made. See also section 57, for a further modification of the exemptions in this section. 14 & 15 Vict. c. 25. s. 2.

[The rule that goods already in the custody of the law are exempt from seizure, is a rule of common law; but the statutes of 56 Geo. 3. c. 50. and 14 & 15 Vict. c. 25. have introduced considerable complexity as to certain articles. In conformity with the rule already mentioned, it has not been thought right to alter these legislative provisions; and section 11 of Part III. contains the substance of the existing law, with no other alteration than the removal of a doubt which occurs, whether the act of 14 & 15 Vict. is a repeal of that of 56 Geo. 3. as to distresses on growing crops for rent become due since the sale. It is presumed that it was *not* intended to apply to the peculiar case provided for by the act of 56 Geo. 3. It will be apparent that great additional simplification could easily be introduced in the subject of this section, without any material departure from the present law.]

26. Provided nevertheless, that no goods or chattels shall be liable to be taken by virtue of any execution, unless the party at whose suit the execution is sued out shall, before the removal of the goods or chattels, pay to the landlord all that shall be due for rent at the time of taking the goods or chattels, provided such arrears do not exceed in any case one year's rent; and where the letting is for any term less than a quarter of a year, do not exceed the rent due for FOUR such terms. This section does not apply to extents by the Crown, nor to goods taken in execution under the process of any county court. 8 Ann. c. 14. s. 1. 7 & 8 Vict. c. 96. s. 67.

[The provisions of this and the next section are retained unaltered in Part III. sections 20 and 21, for the reasons already mentioned. There is a slight difference between the amount of arrears that may be recovered in this and the next section, for which no reason appears, and the two sections might easily be fused into one.]

27. The landlord of any tenement in which any chattels shall be taken in execution under the process of any county court shall be entitled, by any writing under his hand, or under the hand of his agent, to be delivered to the bailiff or officer making the levy, (which writing shall state the amount of the rent claimed to be in arrear, and the time in respect of which such rent is claimed to be due, *in like manner as is required by law in cases of ordinary distress for rent**), to claim any rent in arrear then due to him not exceeding the rent of four weeks where the tenement is let by the week, and not exceeding the rent accruing due in TWO terms of payment where the tenement is let for any other term less than a year, and not exceeding in any case the rent accruing due in one year; and in case any such claim shall be made, no execution creditor shall be satisfied his debt out of the proceeds of any execution or distress until the landlord claiming as aforesaid shall have been paid such arrears of rent as aforesaid. 9 & 10 Vict. c. 95. s. 107. 13 & 14 Vict. c. 61. s. 62.

28. Cattle which have strayed on the land, if they were enabled to do so by reason of the defect of fences which the tenant was bound to repair, but not otherwise, are exempt from being taken in distress until they have been levant and couchant on the land, and until the owner has had notice that they are on the land, and has neglected to drive them away.

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* See note to section 9 of Part I.

29. Things in actual personal use are exempt from being taken in distress.

[The reason assigned for this exemption is, that it is to prevent a breach of the peace. But there seems no reason why the party distraining should not have the power of seizing it by *declaration*, so that the goods may be taken as soon as the actual possession ceases, without being objected to as a second distress. See section 13 of Part III.]

6 & 7 Vict. c. 40. s. 18.

30. Frames, looms, or machines, materials, tools, or apparatus, not the property of the tenant, which have been intrusted for the purpose of being used or worked in the manufacture of woollen, worsted, linen, cotton, flax, mohair, or silk, or any work connected therewith or incidental thereto, or any parts, branches, or processes thereof, whether rented or taken by the hire or not, are exempt from being taken in distress.

[See section 10 of Part III. This exemption having been recently granted by the legislature is left unaltered, for the reason already mentioned: though, if it is a just one, it certainly ought to be extended to many similar cases.]

7 Ann. c. 12. s. 3.

31. All distresses of the goods or chattels of any ambassador or other public minister of any foreign prince or state, authorized and received as such by the Crown, or the domestic or domestic servant of any such ambassador or other public minister, shall be utterly null and void.

32. The following articles shall not be taken for distress unless there is no other sufficient property on the land :—

Beasts of the plough, saddle-horses, sheep, poultry, and fish*; tools and implements of trade or profession†; armour, wearing apparel, jewels, and household utensils.

[These appear to be the articles partially exempted according to the text books. But these partial exemptions are practically both inconvenient and ineffectual, for they do not prevent a seizure and sale of the articles in the first instance, and the tenant's only remedy is by proving special damage, a case which can very rarely be established. It is therefore proposed to do away with these partial exemptions, and to protect the tenant by giving absolute exemption to such articles as seem to require it, but fixing a limit *in value*, as is done in the case of insolvency, &c. It is submitted also that the necessaries of *strangers* should (in addition to the above exemption of a limited value) be exempted *altogether*, except in default of sufficient distress of the property of the tenant. The landlord can hardly be mistaken or deceived as to such articles, and the principle seems recognized in the late act, 14 & 15 Vict. c. 25. s. 2., which empowers the landlord to seize growing crops, even in the hands of a vendee of the sheriff, *in default of sufficient goods of the tenant.* As in these cases the action for damages for an improper distress would be brought by the owner of the necessaries and not by the tenant, the difficulty above mentioned in the case of the tenant, of proving damage, would not occur. See section 15 of Part III.]

7 & 8 Vict. c. 96. s. 18.

33. No distress for rent made and levied after the filing of any petition for protection from process by an insolvent debtor upon the goods or chattels *of the petitioner*, shall be available for more than one year's rent accrued prior to the filing of such petition.

[There seems to be a slight distinction between the case of insolvency and that of bankruptcy in the next section. The landlord it appears may, in the case of insolvency, distrain goods *not the property of the tenant*, for more than a year's arrears, but not in the case of bankruptcy. The 11 Geo. 2. c. 19., which empowers the landlord to follow goods off the land "in case the tenant or tenants shall fraudulently con-"vey away *his, her, or their* goods or chattels," is held to apply to the property *of the tenant* only (see Coote, 485), and the words "of the petitioner" must, it is presumed, have the same effect. No alteration, however, is made in Part III. sections 18 and 19, the statutes being so recent; but the two may easily be fused into one, if thought expedient.]

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* See Coote, 456. † Doubtful; see Coote, 457.

34. No distress for rent made and levied after an act of bankruptcy by the tenant shall be available for more than one year's rent accrued prior to the date of the filing of a petition for adjudication of bankruptcy. 12 & 13 Vict. c. 106. s. 129.

35. The landlord has no further lien on goods or chattels after they have been replevied.*

36. The right to distrain is not lost by taking any security for the rent in arrear, nor by an agreement to take interest on the rent in arrear†; but it is lost by judgment obtained in a personal action for the rent due, unless the landlord waive his right to execution.

37. A distress may be made without any demand of payment of the rent in arrear.

38. For the purpose of making any distress, the party distraining may enter upon or into any land or building through any passage or opening; but except in the case of fraudulent removal, herein-after provided for, he may not *break* any outer door, gate, shutter, window, inclosure, or fence; but after lawful entry he may break open any inner obstacle or fastening whatever.‡

[In Part III. section 26, a definition of "breaking open" is given, which seems to be needed, as in the case of burglary *the lifting of a latch* is held to be a breaking.]

39. The landlord, with the assistance of the constable, headborough, borsholder, or other peace officer of the place, may, between sunrise and sunset, break open any house, building, or place in which any goods or chattels fraudulently carried away, as mentioned in the 16th section, shall be; but, in the case of a dwelling house, first making oath before a justice that he has reasonable ground to suspect that such goods or chattels are therein. 11 G. 2. c. 19. s. 1.

40. A seizure of any one article, accompanied by a declaration that it is seized in the name of any other or others, is a valid seizure of the larger quantity.

41. All goods and chattels when seized must be impounded in a suitable public or private pound, overt or covert, according to the nature of the property.

42. The landlord may impound or secure the distress on any convenient part of the land subject to the rent. 11 G. 2. c. 19. s. 10.

43. No distress may be driven out of the county where it was taken. 52 Hen. 3. (Marlebridge) c. 4.

44. No distress of cattle may be driven out of the hundred, rape, wapentake, or lathe where it was taken, except it be to a pound overt within the same shire, not above three miles from the place where the distress was taken. 3 Edw. 1. (Westminster, first) c. 16. 1 & 2 P. & M. c. 12. s. 1.

[This provision is retained in Part III. section 33; but query, whether the limitation as to distance is not practically inconvenient.]

45. Where lands lying in two adjoining counties are held under one demise, at one rent, goods and chattels seized thereon may be impounded in a pound in either county.§

46. No cattle or other goods distrained at one time shall be impounded in several places, whereby the owner of such distress shall be constrained to sue several replevins. 1 & 2 P. & M. c. 12. s. 1.

47. Where goods or chattels are impounded elsewhere than on the land where they were seized, no person shall take, for keeping in pound, impounding, or poundage of any manner of distress, above the sum of fourpence for any one whole distress, nor more than has been used.‖ 1 & 2 P. & M. c. 12. s. 2.

[This being obselete is omitted in Part III.]

48. The tenant may determine a distress by payment or tender of all arrears of rent, together with the expenses of the distress (if any), at any time before the goods or chattels are impounded.

49. The landlord may not use any goods or chattels taken in distress for his own benefit.¶

[See Part III. section 36.]

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* Coote, 471. † Woodfall, 295.

‡ There seem to be doubts whether the rule against breaking open is limited to doors of a *building*; but it seems to extend to all doors, *gates, or fences*. See Co. Litt. 161 a., 11 Geo. 2. c. 19. s. 7., and the late case of Brown v. Glenn in the Q. B. 1851.

§ Coote, 475. ‖ See Coote, 843.

¶ Coote, 478. Doubts whether a cow may be milked, &c.

50. The landlord may, *at his option*, either retain goods and chattels distrained *until replevied*, or sell the same in the manner herein-after mentioned.

[See "*Replevin.*"]

[It does not appear that the statute, 2 W. & M. sess. 1. c. 5., which empowers the landlord to sell, takes away the old power to detain the distress until payment; the words appear to be permissive, "shall *and may*." The statute 11 Geo. 2. c. 19., however, which empowers the landlord to impound the distress on the land, seems only applicable to cases where there is to be a sale.

But as practically the right to retain goods which are not replevied as a pledge until payment is now never exercised, it is proposed to make it compulsory on the landlord to sell, and not to leave him the alternative. See Part III. section 38.]

2 W. & M. sess. 1. c. 5 s. 2.

51. If the tenant or owner of the goods or chattels distrained shall not, within five days next after such distress taken, and notice thereof (with the cause of such taking) given to the tenant *personally*,* or left at the chief mansion house or other most notorious place on the land charged with the rent distrained for, replevy the same, the landlord may, with the sheriff or under sheriff of the county, or with the constable of the hundred, parish, or place where such distress shall be taken, cause the goods and chattels so distrained to be appraised by two sworn appraisers, and after such appraisement may sell the goods and chattles so distrained, and apply the proceeds towards satisfaction of the rent due, and of the charges of such distress, appraisement, and sale, leaving the overplus (if any) in the hands of the sheriff, under sheriff, or constable, for the owner's use.

52. The appraisers shall first be sworn by the sheriff or under sheriff of the county, or by the constable of the parish, hundred, or place in which the distress was taken, to appraise the goods and chattels truly, according to the best of their understandings.

53. The appraisers must be persons having no interest in the goods and chattels, and must not be the broker or other agent of the landlord.

54. For the purposes of the sale it shall be lawful for all persons to come and go to and from all parts of the land where the goods and chattels shall be impounded or secured, in order to view, appraise, sell, buy, and remove the same.

57 G. 3 c. 93. s. 6.

55. Every person making a distress shall give a copy of his charges (if any) to the tenant distrained on.

57 G. 3. c. 93. s. 1.

56. In cases where the sum demanded and due for rent shall not exceed 20*l.* no person or persons making or employed in making a distress shall be entitled to demand or take, either from the landlord or the tenant, or any other person, any greater costs or charges than those set forth in the schedule to this section, nor to charge for any act or service, unless really done.

The Schedule of Charges.

(As in 57 Geo. 3. c. 93.)

[If rules for the protection of the tenant from extortion are thought desirable, there seems no good reason why there should be a limit to the amount of arrears to which they are applicable. In section 44 of Part III., therefore, this provision is extended to all cases.]

56 G. 3. c. 50. s. 6.

57. No crops or produce, which have been taken in execution and afterwards sold by the sheriff to a person who has agreed to use and expend the same on the land, according to the provisions of the 50th chapter of the statutes of the 56th year of George the 3d, nor any animals or implements of husbandry which shall be kept or used for the purposes of consuming or operating upon any such crops or produce, shall be distrained for any rent.†

[See note at section 25.]

58. A landlord may not make a second distress for any rent already distrained for, although in his first distress he may not have seized sufficient goods and chattels to satisfy his claim; except where all the goods or chattels on the land at the time of making the distress were seized, and others have subsequently been brought on the land; or where the goods or chattels first seized were of

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* The statute is held to be satisfied by personal service; Coote, 479.

† Query, whether the 14 & 15 Vict. c. 25. is a partial repeal of this provision. See section 25.

uncertain or imaginary value; and except also in the cases mentioned in the next two sections.*

[The rule as to second distresses appears very uncertain at present. It is proposed to settle it as in section 43 of Part III. omitting the provisions from the 17 Car. 2. c. 7. contained in the next section, which have become obsolete, or nearly so, having been made before the landlord was empowered to sell.]

59. In cases where it has been found by a jury, under the provisions of the 2d or 3d sections of the 7th chapter of the statutes of the 17th year of King Charles the 2d, that the value of the cattle distrained was not equal to the value of the arrears distrained for, the landlord may from time to time distrain again for the residue of the said arrears. 17 Car. 2. c. 7. s. 4.

60. The landlord may make a second distress if any cattle taken and impounded die without any fault or neglect on his part.†

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* This seems to be the law, though the common text books are not very clear. Stephen's Comm. iii. 369; Bacon's Abr. Distress, E.; Woodfall, L. & T. 329; Coote, L. & T. 483; 2 Chitty's Stats. (2d ed.) 769.

† Coote, 484.

PART III.

BEING

A Digest of the Law *with Amendments.*

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1. Subject to the exceptions and conditions contained in this chapter, any rent due by a tenant may be recovered by way of distress.

2. To be recoverable by distress a rent must be a fixed rent, and must have become due under an actual demise at law.

A. *Who may distrain.*

3. The landlord may distrain either in person, or by his agent.

4. Every person to whom any rent is due or payable, and who can give a valid discharge for the same, may distrain for the same as landlord.

B. *Limitation as to Time.*

5. No distress may be made, but during the continuance of the estate or interest of the tenant, or within six months after its determination, provided he, his executors or administrators, continue in possession of the land.

6. No arrears of rent may be recovered by distress but within six years next after the same became due, or next after an acknowledgment in writing that the same was due.

C. *What may be taken.*

7. A distress must not be excessive. The things liable to be taken in distress are:—1st, all personal goods and chattels of every kind, including money and bank notes, on the land out of which the rent distrained for issued, whether belonging to the tenant or to any other person:—2dly, cattle belonging to or in the custody of the tenant, depasturing on any common in any way appendant or appurtenant to the land out of which the rent issued:—3dly, any goods or chattels belonging to the tenant (wherever found), which have been fraudulently conveyed away by the tenant, either before or after the rent became due, in order to prevent the landlord from seizing them as a distress, provided that the same be seized within 30 days next after such conveying away; and provided they have not in the meantime been sold in good faith for a valuable consideration. A removal of goods or chattels is not to be deemed fraudulent if sufficient goods or chattels belonging to the tenant are left on the land to satisfy all rent due:—4thly, all fixtures, growing crops, and other things attached to the freehold or savouring of the realty of the land out of which the rent issued, which the tenant or owner might lawfully remove either in the course of or at the determination of his estate or interest, whether belonging to the tenant or to any other person.

The following ten sections contain exceptions to the general rule contained in this section.

8. Things which are themselves the subject of the demise, are exempt from being seized.

9. Things which have been delivered either actually or constructively to the tenant to be wrought, repaired, or altered, kept, carried, or otherwise dealt with in the way of his trade, are exempt from being seized. But cattle on the land for agistment are not exempt, except cattle on a journey put on the land for one night, or from Saturday to Monday only.

10. Frames, looms, or machines, materials, tools, or apparatus, not the property of the tenant, which have been intrusted for the purpose of being used or worked in the manufacture of woollen, worsted, linen, cotton, flax, mohair, or silk, or any work connected therewith or incidental thereto, or any parts, branches, or processes thereof, whether rented or taken by the hire or not, are exempt from being seized.*

11. Things already in the custody of the law by way of distress or execution are exempt from being seized, as well in the hands of the officer or other person by whom they have been already seized, as of his vendee; but in the case of the vendee, only for such reasonable time as is requisite to enable him to remove such things. Things vested in assignees in bankruptcy or insolvency are not in the custody of the law within the meaning of this section. All crops and produce which have been taken in execution, and afterwards sold by the sheriff to any person who has agreed to use and expend the same on the land according to the provisions of the 50th chapter of the statutes of the 56th year of King George the 3d, and all animals and implements of husbandry, which are kept or used for the purpose of consuming or operating on any such crops or produce, are absolutely exempt from being seized; but other growing crops in the hands of such vendee as aforesaid may be seized for rent accrued due after the prior seizure and sale, in default of sufficient distress of the goods and chattels of the tenant.*

12. Cattle which have strayed on the land, if they were enabled to do so by reason of the defect of fences which the tenant was bound to repair (but not otherwise), are exempt from being seized, until they have been levant and couchant on the land, and until the owner has had notice that they are on the land, and has neglected to remove them.

13. Things in the personal occupation of the tenant or any other person, so that the same cannot be seized against the will of the occupant without force, may not be taken by force; but the same may be declared seized, and as soon as the occupation ceases such things shall be deemed to have been seized at the time of the original distress.

14. Fixtures and things commonly attached to the freehold do not become liable to be seized (if not otherwise liable) by being removed for a temporary purpose.

15. Tools and implements of trade, and wearing apparel in ordinary use of the tenant and his family, not exceeding in the whole the sum of £ are exempt from being seized; and all tools and implements of trade and wearing apparel in ordinary use belonging to any other person than the tenant and his family, of whatever value, are exempt from being seized, except in default of sufficient distress of the goods and chattels of the tenant. Tools and implements of trade are those things without which the owner cannot earn his ordinary wages or income by his trade or calling.

16. The goods and chattels of all ambassadors and public ministers of any foreign prince or state, authorized and received as such by the Crown, and of the domestic servants of all such ambassadors and ministers, are exempt from being seized.

17. All deeds and muniments of title, and all bonds, bills, and other securities for money, are exempt from being seized.

D. *Provisions where the Tenant is bankrupt or insolvent.*

18. No distress for rent, made and levied after the filing of any petition for protection from process by an insolvent debtor, upon the goods or chattels of the petitioner shall be available for more than one year's rent accrued prior to the filing of such petition.*

19. No distress for rent, made and levied after an act of bankruptcy by the tenant, shall be available for more than one year's rent accrued prior to the date of the filing of a petition for adjudication of bankruptcy.*

E. *Provisions where the Goods of the Tenant have been seized in Execution.*

20. No goods or chattels shall be taken in execution under the process of any court (except a county court), unless the party at whose suit the execution

* These sections admit of much further simplification. See Part II. notes to sections 25, 30, 33.

is sued out shall, before the removal of the goods or chattels, pay to the landlord all that shall be due for rent at the time of taking the same, but not exceeding in any case one year's rent; and where the letting is for any term less than a quarter of a year, not exceeding the rent becoming due at four such terms.*

21. The landlord of any tenement in which any goods or chattels are taken in execution under the process of any county court may, by any writing under his hand delivered to the bailiff or officer making the levy, claim any rent in arrear then due to him, not exceeding the rent of four weeks where the tenement is let by the week, and not exceeding the rent accruing due for two terms of payment where the tenement is let for any other term less than half a year, and in no case exceeding one year's rent; and such writing shall contain a statement of the amount of rent claimed, and the time in respect of which such rent is claimed; and no execution creditor shall be satisfied his debt until the landlord claiming as aforesaid shall have been paid such arrears of rent as aforesaid.*

F. *Penalty for fraudulent Removal.*

22. Every tenant fraudulently conveying away goods or chattels in order to prevent the landlord from seizing them as a distress, and every person wilfully and knowingly aiding any tenant in such fraudulent conveying away, or in concealing any goods and chattels so fraudulently conveyed away, shall forfeit to the landlord double the value of such goods and chattels.

G. *How a Distress is to be made.*

23. A distress must be made after sunrise and before sunset.

24. Any number or quantity of articles in one house, building, or place may be seized by the seizure of any part in the name of all.

25. The party distraining may enter upon any land or building by any passage or opening, but (except in the case of fraudulent removal herein-after provided for) he may not break open any outer door, gate, shutter, window, fence, or other inclosure; but after lawful entry he may break open any inner obstacle or fastening whatever.

26. To remove a fastening placed on any door, gate, window, or shutter only to keep it closed, and not to prevent entry, is not to break open.

27. The landlord, taking with him the constable or any other peace officer of the place, may between sunrise and sunset break open any house, building, or place in which any goods or chattels fraudulently carried away, as mentioned in section 7, shall be; but in the case of a dwelling house, first making oath before a justice that he has reasonable ground to suspect that such goods or chattels are therein.

28. The right to distrain is not lost by taking any security, nor by an agreement to take interest for the rent in arrear; but no distress may be made after judgment obtained in an action for the rent in arrear, unless the landlord waive his right to execution thereon.

29. No demand of the rent in arrear need be made before making a distress.

H. *What is to be done with Goods taken in Distress.*

30. When seized, all goods and chattels (except money or bank notes) shall be impounded in a suitable pound, overt or covert, according to the nature of the property.

31. The landlord may convert any convenient part or parts of the land on which the distress is made into a pound or pounds if he thinks proper, and secure the goods and chattels seized therein.

32. If removed from the land, the goods or chattels may not be taken to a pound out of the county in which they were seized, unless the rent distrained for was issuing out of lands in two adjoining counties, in which case the goods or chattels may be taken to a pound in either county.

33. If cattle are removed to a pound, it must be within the hundred, rape, wapentake, or lathe within which they were taken, or within three miles of the place where they were taken.

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* These sections admit of much further simplification. See note in Part II. sect. 26.

34. No goods or chattels distrained at one time shall be impounded in several places so as to make it necessary for the owner to sue several replevins.

35. The tenant may determine a distress at any time before the goods or chattels are impounded, by payment or tender of all arrears of rent which may be lawfully recovered by distress, together with the expenses of the distress.

36. The landlord may not use any goods or chattels seized for distress for his own benefit, but he may apply to them any ordinary treatment which they may require, or are commonly subjected to.

37. Where money or bank notes have been seized, the landlord may apply the same forthwith in discharge of the rent due, and of the costs and charges of the distress, if any.

I. *Sale.*

38. The landlord immediately after making a distress shall give notice in writing thereof to the tenant, either personally or by leaving it at the chief mansion house, or affixing it to some notorious place on the land charged with the rent distrained for, which writing shall state the cause of making such distress; and the landlord shall also, as soon as conveniently may be, give notice to the tenant, in manner aforesaid, of the pound or place where the goods and chattels are impounded, unless the same be impounded on the land of the tenant; and unless the tenant shall, within five days next after such first-mentioned notice, replevy the said goods or chattels, the landlord shall cause the same to be appraised by two sworn appraisers in the presence of the sheriff or under sheriff of the county, or of the constable of the place where the goods or chattels were taken, and after such appraisement shall sell the same for the best price that he can reasonably obtain, and apply the proceeds of the sale towards satisfaction of the rent due to him, and of the charges of the distress, appraisement, and sale, leaving the overplus (if any) in the hands of the sheriff, under sheriff, or constable, for the use of the owner.

39. The appraisers shall be sworn by the sheriff, under sheriff, or constable aforesaid, to appraise the said goods and chattels truly, according to the best of their understandings; and they must have no interest in the property appraised, nor be the broker or other agent of the landlord.

40. Growing crops and other produce shall be left standing and growing on the land until the same are ripe and fit to be cut, gathered, or dug; and the appraisement and sale thereof shall be made when the same are ripe and fit to be cut, gathered, or dug, and not before; and the same may be sold either standing and in the ground, or after they have been cut, gathered, dug, cured, and made by the landlord; and it shall be lawful for the landlord and his vendee, at all reasonable times, to enter on the land for the purpose of subjecting any such growing crops or produce to proper and usual agricultural operations, and of cutting, gathering, digging, curing, and making and removing the same.

41. The landlord may sell perishable goods, which cannot be kept for the five days, mentioned in section 36, without injury, as soon as seized, for the best price that he can reasonably obtain, and without any such appraisement as aforesaid.

42. When the goods or chattels seized are impounded or sold on the land of the tenant it shall be lawful for all persons to come and go to and from all parts of the land where the goods or chattels are impounded or secured, in order to view, appraise, sell, buy, and remove the same.

J. *Second Distress.*

43. The landlord may not make a second distress for the same arrears of rent, although the proceeds of the first distress were not sufficient to satisfy the same, unless he seized all the goods and chattels that he could lawfully seize in the first instance, and other goods or chattels have subsequently been brought on the land; or unless any cattle seized die before the sale, without any fault of the landlord.

K. *Costs.*

44. Every person making a distress shall give a copy of his charges (if any) to the tenant whose goods or chattels are seized, or affix the same to some conspicuous part of the property.

45. No person or persons making or employed in making a distress shall be entitled to demand or take, either from the landlord or the tenant, or any other person, any costs or charges exceeding the amounts set forth in the schedule to this section, nor to charge for any act or service unless really done.

The Schedule of Costs and Charges.

APPENDIX.

APPENDIX I.

Statutes.

51 Hen. 3. stat. 4.

No man of religion, nor other, shall be distrained by his beasts that gain his land, nor by his sheep, for the king's debt, nor the debt of any other man, nor for any other cause by the king's or other bailiffs, but until they can find another distress, or chattels sufficient whereof they may levy the debt, or that is sufficient for the demand.

52 Hen. 3. cap. 4.

None from henceforth shall cause any distress that he hath taken to be driven out of the county where it was taken; and if one neighbour do so to another of his own authority, and without judgment, he shall make fine (as above is said) as for a thing done against the peace. Nevertheless, if a lord presume so to do against his tenant, he shall be grievously punished by amerciament. Moreover, distresses shall be reasonable, and not too great. And he that taketh great and unreasonable distresses, shall be grievously amerced for the excess of such distresses.

52 Hen. 3. cap. 15.

It shall be lawful for no man from henceforth, for any manner of cause, to take distresses out of his fee, nor in the king's highway, nor in the common street, but only to the king or his officers having special authority to do the same.

32 Hen. 8. cap. 37.

3. That if any man which now hath, or hereafter shall have, in the right of his wife, any estate in fee simple, fee tail, or for term of life, of or in any rents or fee farms, and the same rents or fee farms now be, or hereafter shall be due, behind, and unpaid in the said wife's life, then the said husband, after the death of his said wife, his executors and administrators, shall have an action of debt for the said arrearages against the tenant of the demesne that ought to have paid the same, his executors or administrators; and also the said husband, after the death of his said wife, may distrain for the said arrearages in like manner and form as he might have done if his said wife had been then living, and make avowry upon his matter as is aforesaid.

4. That if any person or persons which now have, or hereafter shall have, any rents or fee farms for term of life or lives of any other person or persons, and the said rent or fee farm now be or hereafter shall be due, behind, and unpaid in the life of such person or persons for whose life or lives the estate of the said rent or fee farm did depend or continue, and after the said person or persons do die, then he unto whom the said rent or fee farm was due in form aforesaid, his executors or administrators, shall and may have an action of debt against the tenant in demesne that ought to have paid the same when it was first due, his executors and administrators, and also distrain for the same arrearages upon such lands and tenements, out of the which the said rents or fee farms were issuing and payable, in such like manner and form as he ought or might have done if such person or persons by whose death the aforesaid estate in the said rents and fee farms was determined and expired had been in full life and not dead; and the avowry for the taking of the same distress to be made in manner and form aforesaid.

1 & 2 Phil. & Mary, cap. 12.

For the avoiding of grievous vexations, exactions, troubles, and disorder in taking of distresses and impounding of cattle, be it enacted, that from and after the 1st day of April next coming, no distress of cattle shall be driven out of the hundred, rape, wapentake, or lathe where such distress is or shall be taken, except that it be to a pound overt within the same shire, not above three miles distant from the place where the said distress is taken; and that no cattle or other goods distrained or taken away by way of distress for any manner of cause at one time shall be impounded in several places, whereby the owner or owners of such distress shall be constrained to sue several replevies for the delivery of the said distress so taken at one time: upon pain every person offending contrary to this Act, shall forfeit to the party grieved for every such offence an hundred shillings and treble damages.

2. That no person or persons shall take for keeping in pound, impounding, or poundage of any manner of distress, above the sum of fourpence for any one whole distress that shall

be so impounded; and where less hath been used there to take less, upon the pain of 5*l.* to be paid to the party grieved over and beside such money as he shall take above the sum of fourpence, any usage or prescription to the contrary in anywise notwithstanding.

17 Car. 2. cap. 7.

4. Provided always, that in all cases aforesaid where the value of the cattle distrained as aforesaid shall not be found to be to the value of the arrears distrained for, the party to whom such arrears were due, his executors or administrators, may from time to time distrain again for the residue of the said arrears.

(Extended to Wales and the Counties Palatine by 19 Car. 2. cap. 5.)

2 Will. & Mary, sess. 1. cap. 5.

2. Be it enacted, that from and after the 1st day of June 1690, where any goods or chattels shall be distrained for any rent reserved and due upon any demise, lease, or contract whatsoever. and the tenant or owner of the goods so distrained shall not, within five days next after such distress taken, and notice thereof (with the cause of such taking) left at the chief mansion house or other most notorious place on the premises charged with the rent distrained for, replevy the same, with sufficient security to be given to the sheriff according to law, that then in such case, after such distress and notice as aforesaid, and expiration of the said five days, the person distraining *shall and may*, with the sheriff or under sheriff of the county, or with the constable of the hundred, parish, or place where such distress shall be taken (who are hereby required to be aiding and assisting therein) cause the goods and chattels so distrained to be appraised by two sworn appraisers (whom such sheriff, under sheriff, or constable are hereby empowered to swear) to appraise the same truly, according to the best of their understandings, and after such appraisement shall and may lawfully sell the goods and chattels so distrained for the best price can be gotten for the same, towards satisfaction of the rent for which the said goods and chattels shall be distrained, and of the charges of such distress, appraisement, and sale, leaving the overplus (if any) in the hands of the said sheriff, under sheriff, or constable, for the owner's use.

3. And whereas no sheaves or cocks of corn, loose or in the straw, or hay, in any barn or granary, or on any hovel, stack, or rick, can by the law be distrained or otherwise secured for rent, whereby landlords are oftentimes cousened and deceived by their tenants, who sell their corn, grain, and hay to strangers, and remove the same from the premises chargeable with such rent, and thereby avoid the payment of the same; be it further enacted, that for remedying the said practice and deceit it shall and may from and after the said 1st day of June be lawful to and for any person or persons having rent arrear and due upon any such demise, lease, or contract as aforesaid, to seize and secure any sheaves or cocks of corn, or corn loose or in the straw, or hay, lying or being in any barn or granary, or upon any hovel, stack, or rick, or otherwise upon any part of the land or ground charged with such rent, and to lock up or detain the same in the place where the same shall be found, for or in the nature of a distress, until the same shall be replevied upon such security to be given as aforesaid; and in default of replevying the same as aforesaid, within the time aforesaid, to sell the same after such appraisement thereof to be made; so as nevertheless such corn, grain, or hay so distrained as aforesaid be not removed by the person or persons distraining, to the damage of the owner thereof, out of the place where the same shall be found and seized, but be kept there (as impounded) until the same shall be replevied or sold in default of replevying the same within the time aforesaid.

7 Anne, cap. 12.

3. And to prevent the like insolences for the future, be it further enacted by the authority aforesaid, that all writs and processes that shall at any time hereafter be sued forth or prosecuted whereby the person of any ambassador or other public minister of any foreign prince or state, authorized and received as such by her Majesty, her heirs or successors, or the domestic or domestic servant of any such ambassador or other public minister, may be arrested and imprisoned, or his or their goods or chattels may be distrained, seized, or attached, shall be deemed and adjudged to be utterly null and void to all intents, constructions, and purposes whatsoever.

8 Anne, cap. 14.

For the more easy and effectual recovery of rents reserved on leases for life or lives, term of years, at will, or otherwise; be it enacted, that from and after the 1st day of May, which shall be in the year of our Lord 1710, no goods or chattels whatsoever, lying or being in or upon any messuage, lands, or tenements, which are or shall be leased for life or lives, term of years, at will, or otherwise, shall be liable to be taken by virtue of any execution on any pretence whatsoever, unless the party at whose suit the said execution is sued out shall, before the removal of such goods from off the said premises by virtue of such execution or extent, pay to the landlord of the said premises or his bailiff all such sum or sums of money as are or shall be due for rent for the said premises at the time of the taking such goods or chattels by virtue of such execution; provided the said arrears of rent do not amount to more than one year's rent; and in case the said arrears shall exceed one year's rent, then the said party at whose suit such execution is sued out. paying the said landlord or his bailiff one year's rent, may proceed to execute his judgment as he might have done before

the making of this Act; and the sheriff or other officer is hereby empowered and required to levy and pay to the plaintiff as well the money so paid for rent as the execution money.

6. And whereas tenants pur autre vie, and lessees for years or at will, frequently hold over the tenements to them demised after the determination of such leases; and whereas after the determination of such or any other leases, no distress can by law be made for any arrears of rent that grew due on such respective leases before the determination thereof; it is hereby further enacted, that from and after the said 1st day of May 1710 it shall and may be lawful for any person or persons having any rent in arrear, or due upon any lease for life or lives, or for years, or at will, ended or determined, to distrain for such arrears after the determination of the said respective leases, in the same manner as they might have done if such lease or leases had not been ended or determined.

7. Provided, that such distress be made within the space of six calendar months after the determination of such lease, and during the continuance of such landlord's title or interest, and during the possession of the tenant from whom such arrears became due.

8. Provided always, that nothing in this Act contained shall extend or be construed to extend to let, hinder, or prejudice her Majesty, her heirs or successors, in the levying, recovering, or seizing any debts, fines, penalties, or forfeitures that are or shall be due, payable, or answerable to her Majesty, her heirs or successors; but that it shall and may be lawful for her Majesty, her heirs and successors, to levy, recover, and seize such debts, fines, penalties, and forfeitures, in the same manner as if this Act had never been made; anything in this Act contained to the contrary thereof in anywise notwithstanding.

11 Geo. 2. cap. 19.

Whereas the several laws heretofore made for the better security of rents, and to prevent frauds committed by tenants, have not proved sufficient to obtain the good ends and purposes designed thereby, but rather the fraudulent practices of tenants and the mischief intended by the said Acts to be prevented have of late years increased, to the great loss and damage of their lessors or landlords; for remedy whereof be it enacted, that from and after the 24th day of June in the year of our Lord 1738, in case any tenant or tenants, lessee or lessees for life or lives, term of years, at will, sufferance, or otherwise, of any messuages, lands, tenements, or hereditaments, upon the demise or holding whereof any rent is or shall be reserved, due, or made payable, shall fraudulently or clandestinely convey away, or carry off or from such premises his, her, or their goods or chattels, to prevent the landlord or lessor, landlords or lessors, from distraining the same for arrears of rent so reserved, due, or made payable, it shall and may be lawful to and for every landlord or lessor, landlords or lessors, within that part of Great Britain called England, dominion of Wales, or the town of Berwick-upon-Tweed, or any person or persons by him, her, or them, for that purpose lawfully empowered, within the space of thirty days next ensuing such conveying away or carrying off such goods or chattels as aforesaid, to take and seize such goods and chattels, wherever the same shall be found, as a distress for the said arrears of rent, and the same to sell or otherwise dispose of, in such manner as if the said goods and chattels had actually been distrained by such lessor or landlord, lessors or landlords, in and upon such premises, for such arrears of rent, any law, custom, or usage to the contrary in anywise notwithstanding.

2. Provided always, that no landlord or lessors, or other person entitled to such arrears of rent, shall take or seize any such goods or chattels as a distress for the same, which shall be sold bonâ fide, and for a valuable consideration, before such seizure made, to any person or persons not privy to such fraud as aforesaid, anything herein contained to the contrary notwithstanding.

7. That where any goods or chattels fraudulently or clandestinely conveyed or carried away by any tenant or tenants, lessee or lessees, his, her, or their servant or servants, agent or agents, or other person or persons aiding or assisting therein, shall be put, placed, or kept in any house, barn, stable, outhouse, yard, close, or place, locked up, fastened, or otherwise secured, so as to prevent such goods or chattels from being taken and seized as a distress for arrears of rent, it shall and may be lawful for the landlord or landlords, lessor or lessors, his, her, or their steward, bailiff, receiver, or other person or persons empowered to take and seize, as a distress for rent, such goods and chattels (first calling to his, her, or their assistance the constable, headborough, borsholder, or other peace officer of the hundred, borough, parish, district, or place where the same shall be suspected to be concealed, who are hereby required to aid and assist therein; and in case of a dwelling house, oath being also first made before some justice of the peace of a reasonable ground to suspect that such goods or chattels are therein) in the daytime to break open and enter into such house, barn, stable, outhouse, yard, close, and place, and to take and seize such goods and chattels for the said arrears of rent, as he, she, or they might have done by virtue of this or any former act, if such goods and chattels had been put in any open field or place.

8. That from and after the said 24th day of June which shall be in the year of our Lord 1738, it shall and may be lawful to and for every lessor or landlord, lessors or landlords, or his, her, or their steward, bailiff, receiver, or other person or persons empowered by him, her, or them, to take and seize, as a distress or arrears of rent, any cattle or stock of their respective tenant or tenants, feeding or depasturing upon any common, appendant or

appurtenant, or anyways belonging to all or any part of the premises demised or holden; and also to take and seize all sorts of corn and grass, hops, roots, fruits, pulse, or other product whatsoever which shall be growing on any part of the estates so demised or holden, as a distress for arrears of rent, and the same to cut, gather, make, cure, carry, and lay up, when ripe, in the barns or other proper place on the premises so demised or holden, and in case there shall be no barn or proper place on the premises so demised or holden, then in any other barn or proper place which such lessor or landlord, lessors or landlords, shall hire or otherwise procure for that purpose, and as near as may be to the premises, and in convenient time to appraise, sell, or otherwise dispose of the same towards satisfaction of the rent for which such distress shall have been taken, and of the charges of such distress, appraisement, and sale, in the same manner as other goods and chattels may be seized, distrained, and disposed of; and the appraisement thereof to be taken when cut, gathered, cured, and made, and not before.

9. Provided always, that notice of the place where the goods and chattels so distrained shall be lodged or deposited shall, within the space of one week after the lodging or depositing thereof in such place, be given to such lessee or tenant, or left at the last place of his or her abode; and that if after any distress for arrears of rent so taken of corn, grass, hops, roots, fruits, pulse, or other product which shall be growing as aforesaid, and at any time before the same shall be ripe and cut, cured or gathered, the tenant or lessee, his or her executors, administrators, or assigns, shall pay or cause to be paid to the lessor or landlord, lessors or landlords, for whom such distress shall be taken, or to the steward or other person usually employed to receive the rent of such lessor or lessors, landlord or landlords, the whole rent which shall be then in arrear, together with the full costs and charges of making such distress, and which shall have been occasioned thereby; that then and upon such payment or lawful tender thereof actually made, whereby the end of such distress will be fully answered, the same and every part thereof shall cease, and the corn, grass, hops, roots, fruits, pulse, or other product so distrained, shall be delivered up to the lessee or tenant, his or her executors, administrators, or assigns, anything herein-before contained to the contrary notwithstanding.

10. And whereas great difficulties and inconveniences frequently arise to landlords and lessors and other persons taking distresses for rent, in removing the goods and chattels or stock distrained off the premises, in cases where by law they may not be impounded and secured thereupon, and also to the tenants themselves many times, by the damage unavoidably done to such goods and chattels, or stock, in the removal thereof; be it enacted, that from and after the said 24th day of June 1738, it shall and may be lawful to and for any person or persons lawfully taking any distress for any kind of rent, to impound or otherwise secure the distress so made, of what nature or kind soever it may be, in such place, or on such part of the premises chargeable with the rent, as shall be most fit and convenient for the impounding and securing such distress, and to appraise, sell, and dispose of the same upon the premises, in like manner, and under the like directions and restraints, to all intents and purposes, as any person taking a distress for rent may now do off the premises, by virtue of an act made in the second year of the reign of King William and Queen Mary, intituled "An Act for enabling the sale of goods distrained for rent, in case "the rent be not paid within a reasonable time;" or of one other act made in the fourth year of his present Majesty, intituled "An Act for the more effectual preventing frauds "committed by tenants, and for the more easy recovery of rents and renewal of leases;" and that it shall and may be lawful to and for any person or persons whatsoever to come and go to and from such place or part of the said premises where any distress for rent shall be impounded and secured as aforesaid, in order to view, appraise, and buy, and also in order to carry off or remove the same on account of the purchaser thereof; and that if any pound-breach or rescous shall be made of any goods or chattels, or stock distrained for rent, and impounded or otherwise secured by virtue of this act, the person or persons aggrieved thereby shall have the like remedy as in cases of pound-breach or rescous is given and provided by the said statute.

56 Geo. 3. cap. 50.

6. That in all cases where any purchaser or purchasers of any crops or produce herein-before mentioned shall have entered into any agreement with such sheriff or other officer, touching the use and expenditure thereof on lands let to farm, it shall not be lawful for the owner or landlord of such lands to distrain for any rent on any corn, hay, straw, or other produce thereof, which at the time of such sale and the execution of such agreement, entered into under the provisions of this act, shall have been severed from the soil and sold, subject to such agreement, by such sheriff or other officer; nor on any turnips, whether drawn or growing, if sold according to the provisions of this act; nor on any horses, sheep, or other cattle, nor on any beast whatsoever, nor on any waggons, carts, or other implements of husbandry, which any person or persons shall employ, keep, or use on such lands for the purpose of threshing out, carrying, or consuming any such corn, hay, straw, turnips, or other produce, under the provisions of the act, and the agreement or agreements directed to be entered into between the sheriff or other officer, and the purchaser or purchasers of such crops and produce as herein-before are mentioned.

7. That no sheriff or other officer shall, by virtue of any process whatsoever, sell or dispose of any clover, rye-grass, or any artificial grass or grasses whatsoever, which shall be newly sown and be growing under any crop of standing corn.

[This clause is mentioned here because if the sheriff may *not* seize clover, &c. in execution, it is presumed that the landlord *may* seize it for rent (notwithstanding the execution) by force of the 11 Geo. 2. c. 19. s. 8.]

57 Geo. 3. cap. 93.

Whereas divers persons acting as brokers, and distraining on the goods and chattels of others, or employed in the course of such distresses, have of late made excessive charges, to the great oppression of poor tenants and others; and it is expedient to check such practices; be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that from and after the passing of this act no person whatsoever making any distress for rent, where the sum demanded and due shall not exceed the sum of twenty pounds for and in respect of such rent, nor any person whatsoever employed in any manner in making such distress, or doing any act whatsoever in the course of such distress, or for carrying the same into effect, shall have, take, or receive, out of the produce of the goods or chattels distrained upon and sold, or from the tenant distrained on, or from the landlord, or from any other person whatsoever, any other or more costs and charges for and in respect of such distress, or any matter or thing done therein, than such as are fixed and set forth in the schedule hereunto annexed, and appropriated to each act which shall have been done in the course of such distress; and no person or persons whatsoever shall make any charge whatsoever for any act, matter, or thing mentioned in the said schedule unless such act shall have been really done.

2. And be it further enacted, that if any person or persons whatsoever shall in any manner levy, take, or receive from any person or persons whatsoever, or retain or take from the produce of any goods sold for the payment of such rent, any other or greater costs and charges than are mentioned and set down in the said schedule, or make any charge whatsoever for any act, matter, or thing mentioned in the said schedule, and not really done, it shall be lawful for the party or parties aggrieved by such practices to apply to any one justice of the peace for the county, city, town, and acting for the division where such distress shall have been made or in any manner proceeded in, for the redress of his, her, or their grievance so occasioned, whereupon such justice shall summon the person or persons complained of to appear before him at a reasonable time to be fixed in such summons; and such justice shall examine into the matter of such complaint by all legal ways and means, and also hear in like manner the defence of the person or persons complained of; and if it shall appear to such justice that the person or persons complained of shall have levied, taken, received, or had other and greater costs and charges than are mentioned or fixed in the schedule hereunto annexed, or made any charge for any matter or thing mentioned in the said schedule, such act, matter, or thing not having been really done, such justice shall order and adjudge treble the amount of the monies so unlawfully taken to be paid by the person or persons so having acted to the party or parties who shall thus have preferred his, her, or their complaint thereof, together with full costs; and in case of nonpayment of any monies or costs so ordered and adjudged to be paid, such justice shall forthwith issue his warrant to levy the same by distress and sale of the goods and chattels of the party or parties ordered to pay such monies or costs, rendering the overplus (if any) to the owner or owners, after the payment of the charges of such distress and sale; and in case no sufficient distress can be had, such justice shall by warrant under his hand commit the party or parties to the common gaol or prison within the limits of the jurisdiction of such justice, there to remain until such order or judgment be satisfied.

3. And be it enacted by the authority aforesaid, that it shall be lawful for such justice, at the request of the party complaining or complained against, to summon all persons as witnesses, and to administer an oath to them, touching the matter of such complaint or defence against it; and if any person or persons so summoned shall not obey such summons, without any reasonable or lawful excuse, or refuse to be examined upon oath, or if a quaker upon solemn affirmation, then every such person so offending shall forfeit and pay a sum not exceeding forty shillings, to be ordered, levied, and paid in such manner, and by such means, and with such power of commitment as is herein-before directed as to such order and judgment to be given between the party or parties in the original complaint, excepting so far as regards the form of the order, and herein-after provided for.

4. And be it further enacted, that it shall be lawful for such justice, if he shall find that the complaint of the party or parties aggrieved is not well founded, to order and adjudge costs, not exceeding 20*s.*, to be paid to the party or parties complained against, which order shall be carried into effect, and levied and paid in such manner, and with like power of commitment, as is herein-before directed as to the order and judgment founded on such original complaint: provided always, that nothing herein contained shall empower such justice to make any order or judgment against the landlord for whose benefit any such distress shall have been made, unless such landlord shall have personally levied such distress: provided always, that no person or persons who shall be aggrieved by any distress for rent, or by any proceedings had in the course thereof, or by any costs and charges levied upon them in respect of the same, shall be barred from any legal or other suit or remedy which

he, she, or they might have had before the passing of this act, excepting so far as any complaint to be preferred by virtue of this act shall have been determined by the order and judgment of the justice before whom it shall have been heard and determined; and which order and judgment shall and may be given in evidence, under the plea of the general issue, in all cases where the matter of such complaint shall be made the subject of any action.

5. And be it further enacted, that such orders and judgments on such complaint shall be made in the form in the schedule hereunto annexed, and may be proved before any court by proof of the signature of the justice to such order and judgment; and such orders as regard persons who may have been summoned as witnesses shall be made in such form as to such justice shall seem most fit and convenient.

6. And be it further enacted, that every broker or other person who shall make and levy any distress whatsoever shall give a copy of his charges, and of all the costs and charges of any distress whatsoever signed by him, to the person or persons on whose goods and chattels any distress shall be levied, although the amount of the rent demanded shall exceed the sum of 20*l.*

7. And be it further enacted, that a fair printed copy of this act shall be hung up in some convenient place in such halls or rooms where the justices of each and every county in England and Wales shall hold either their quarter or other sessions.

SCHEDULE REFERRED TO IN THIS ACT.

FORM of the Order and Judgment of the Justice before whom Complaint is preferred, where the Order and Judgment is for the Complainant.

In the matter of the complaint of *A.B.* against *C.D.* for a breach of the provisions of an Act of the 57th year of his Majesty King George the Third, intituled "An Act [*here insert the title of this Act*], I, *E.F.*, a justice of the peace for the county of and acting within the division of do order and adjudge that the said *C.D.* shall pay to *A.B.* the sum of as a compensation and satisfaction for unlawful charges and costs levied and taken from the said *A.B.* under a distress for rent, and the further sum of for costs on this complaint.

(Signed) *E.F.*

FORM of the Order and Judgment of the Justice, where he dismisses the Complaint as unfounded, and with or without Costs, as the case may be.

In the matter of the complaint of *A.B.* against *C.D.* for the breach of the provisions of an Act of the 57th year of his Majesty King George the Third, intituled "An Act [*here insert the title of this Act*], I, *E.F.* a justice of the peace for the county of and acting within the division of do order and adjudge that the complaint of the said *A.B.* is unfounded; [*if costs are given*] and I do further order and adjudge that the said *A.B.* shall pay unto the said *C.D.* the sum of for costs.

(Signed) *E.F.*

SCHEDULE of the Limitation of Costs and Charges on Distresses for Small Rents.

	£	s.	d.
Levying distress - - - - - -	0	3	0
Man in possession, per day - - - -	0	2	6
Appraisement, *whether by one broker or more*, 6*d.* in the pound on the value of the goods.			
Stamp, the lawful amount thereof.			
All expenses of advertisements, if any such - - -	0	10	0
Catalogues, sale, and commission, and delivery of goods, 1*s.* in the pound on the net produce of the sale.			

3 & 4 Wm. 4. cap. 27.

2. And be it further enacted, that after the 31st day of December 1833, no person shall make an entry or distress, or bring an action to recover any land or rent, but within 20 years next after the time at which the right to make such entry or distress, or to bring such action shall have first accrued to some person through whom he claims; or if such right shall not have accrued to any person through whom he claims, then within 20 years next after the time at which the right to make such entry or distress to bring such action shall have first accrued to the person making or bringing the same.*

42. And be it further enacted, that after the said 31st day of December 1833, no arrears of rent or of interest in respect of any sum of money charged upon or payable out of any land or rent, or in respect of any legacy or any damages in respect of such arrears of rent or interest, shall be recovered by any distress, action, or suit, but within six years next after the same respectively shall have become due, or next after an acknowledgment of the same in writing shall have been given to the person entitled thereto, or his agent, signed by the person to whom the same was payable or his agent: provided nevertheless, that where any prior mortgagee or other incumbrancer shall have been in possession of any land, or in the receipt of the profits thereof, within one year next before an action or suit shall be brought

* It has been decided that this section does not extend to rent reserved in a lease. See Part II. section 11.

by any person entitled to a subsequent mortgage or other incumbrance on the same land, the person entitled to such subsequent mortgage or incumbrance may recover in such action or suit the arrears of interest which shall have become due during the whole time that such prior mortgagee or incumbrancer was in such possession or receipt as aforesaid, although such time may have exceeded the said term of six years.

3 & 4 Wm. 4. cap. 42.

37. And be it further enacted, that it shall be lawful for the executors or administrators of any lessor or landlord to distrain upon the lands demised for any term, or at will, for the arrearages of rent due to such lessor or landlord in his lifetime, in like manner as such lessor or landlord might have done in his lifetime.

38. And be it further enacted, that such arrearages may be distrained for after the end or determination of such term or lease, at will, in the same manner as if such term or lease had not been ended or determined; provided that such distress be made within the space of six calendar months after the determination of such term or lease, and during the continuance of the possession of the tenant from whom such arrears became due: provided also, that all and every the powers and provisions in the several statutes made relating to distresses for rent shall be applicable to the distresses so made as aforesaid.

6 & 7 Vict. cap. 40.

18. That no frame, loom, or machine, materials, tools, or apparatus, which shall be intrusted for the purpose of being used or worked in any of the said manufactures, or any work connected therewith or incidental thereto, or any parts, branches, or processes thereof, whether such frame, loom, or machine, materials, tools, or apparatus, shall or shall not be rented or taken by the hire, shall at any time or times hereafter be distrained or seized, or be liable to be distrained or seized for rent or for debt, or under any execution or proceedings whatever, unless the rent be due or the money be owing by the owner of the said frame, loom, or machine, or of the said materials or tools or apparatus aforesaid, or of any part thereof respectively.

7 & 8 Vict. cap. 96.

18. That no distress for rent, made and levied after the filing of any petition for protection from process, upon the goods or effects of the petitioner, shall be available for more than one year's rent accrued prior to the filing of such petition, but that the landlord or party to whom the rent shall be due shall and may be a creditor for the overplus of the rent due, and for which the distress shall not be available, and entitled to all the provisions made for creditors by the said recited act or by this act.

67. That no landlord of any tenement let at a weekly rent shall have any claim or lien upon any goods taken in execution under the process of any court of law for more than four weeks arrears of rent; and if such tenement shall be let for any other term less than a year, the landlord shall not have any claim or lien on such goods for more than the arrears of rent accruing during four such terms or times of payment.

9 & 10 Vict. cap. 95.

107. That so much of an act passed in the 8th year of the reign of Queen Anne, intituled "An Act for the better security of rents, and to prevent frauds committed by tenants," as relates to the liability of goods taken by virtue of any execution, shall not be deemed to apply to goods taken in execution under the process of any court holden under this act; but the landlord of any tenement in which any such goods shall be so taken shall be entitled, by any writing under his hand, or under the hand of his agent, to be delivered to the bailiff or officer making the levy, which writing shall state the terms of holding and the rent payable for the same, to claim any rent in arrear then due to him, not exceeding the rent of four weeks where the tenement is let by the week, and not exceeding the rent accruing due in two terms of payment where the tenement is let for any other term less than a year, and not exceeding in any case the rent accruing due in one year; and in case of any such claim being so made, the bailiff or officer making the levy shall distrain as well for the amount of the rent so claimed, and the costs of such additional distress, as for the amount of money and costs for which the warrant of execution issued under this act, and shall not proceed to sell the same, or any part thereof, within five days next after such distress taken; and if any replevin be made of the goods so taken, such of the goods shall be sold under the execution as shall satisfy the money and costs, for which the warrant of execution issued, and the costs of the sale; and the overplus of such sale (if any), and also the residue of the goods, shall be returned, as in other cases of distress for rent and replevin thereof; and for every such additional distress for rent in arrear, the high bailiff of the court shall be entitled to have, as the cost of the distress, instead of the fees allowed by this act for making such distress, and keeping possession thereof, the fees allowed by an act passed in the 57th year of the reign of King George the 3d, intituled "An Act to regulate the "costs of distresses levied for payment of small rents."

12 & 13 Vict. cap. 106.

129. That no distress for rent, made and levied after an act of bankruptcy, upon the goods or effects of any bankrupt, whether before or after the issuing of the fiat or the filing of the

petition for adjudication of bankruptcy, shall be available for more than one year's rent accrued prior to the date of the fiat or the day of the filing of such petition; but the landlord or person to whom the rent shall be due shall be allowed to come in as a creditor for the overplus of the rent due, and for which the distress shall not be available.

13 & 14 Vict. cap. 61.

20. And whereas by the said act passed in the tenth year of her present Majesty, intituled "An Act for the more easy recovery of small debts and demands in England," it is enacted, that in cases of rent being in arrear in respect of premises wherein goods may have been taken in execution under and by virtue of the said act, it should be lawful for the landlord, by writing to be delivered to the bailiff or officer making the levy, which writing should state the terms of holding and rent payable for the same, to claim any rent in arrear as therein mentioned: and whereas so much of the said enactment as requires that the claim of rent to be made by writing stating the terms of holding may lead to technical objections and unnecessay prolixity: and whereas also it is expedient to obviate certain difficulties which nave arisen as to the landlord's right to priority of payment upon the construction of the said enactment: be it therefore enacted, that so much of the said act as requires that the said writing and claim should state the terms of holding shall be and is hereby repealed, and that it shall be sufficient notice of claim, to entitle the landlord to all the benefits given to landlords under the said act, that such writing and claim shall state the amount of the rent claimed to be in arrear and unpaid, and the time for and in respect of which such rent is claimed to be due, in like manner as is now required by law in cases of ordinary distress for rent, and no further or otherwise; and also that no execution creditor under the said act or this act shall be satisfied his debt out of the process of such execution and distress, or execution only where the tenant shall replevy, until the landlord who shall conform to the provisions of the said act as amended by this act shall have been paid the rent in arrear for the periods in the said act limited.

21. That the enactments contained in the said act, as altered and amended in this act, relating to the claims of landlords for rent in arrear where goods on the premises demised have been taken in execution, shall apply and extend to goods taken in execution under the authority of this act, in as full and beneficial a manner as if the same enactments were re-enacted in the like terms in this act.

14 & 15 Vict. cap. 25.

2. That in case all or any part of the growing crops of the tenant of any farm or lands shall be seized and sold by any sheriff or other officer by virtue of any writ of fieri facias or other writ of execution, such crops, so long as the same shall remain on the farms or lands, shall, in default of sufficient distress of the goods and chattels of the tenant, be liable to the rent which may accrue and become due to the landlord after any such seizure and sale, and to the remedies by distress for recovery of such rent, and that notwithstanding any bargain and sale or assignment which may have been made or executed of such growing crops by any such sheriff or other officer.

APPENDIX II.

Extract from Revised Statutes of New York.*

Distress for Rent.

Part 3. Chap. 8. Title 9.

Distress after tenancy ended.

1. Within six months after the determination of any lease for life or for years, or for any tenancy at will, any person having rent due upon such demise in arrear may distrain for such arrears, either upon any goods remaining on the demised premises or upon any goods that may have been removed, in the same manner, within the same time, and under the same provisions and restrictions, as if such lease or tenancy had not ended.

Not allowed in certain cases.

2. No distress shall be made for any rent for which a judgment shall have been recovered in a personal action.

What officers to execute distress.

3. Every distress for rent shall be made by the sheriff of the county, or one of his deputies, or by a constable or marshal of the city or town where the goods are, who shall conduct the proceedings throughout.

Bond of officers in New York.

4. The official bond of every constable and marshal of the city and county of New York shall contain a condition for the faithful performance of his duty in making any distress, and for the payment of any rent collected by him; and any person aggrieved shall have the like remedy on such bond as in the case of the nonpayment of money collected by any such constable or marshal on execution.

Distress where to be driven.

5. No distress shall be driven out of the town where it shall be taken, except to a pound, within the same county, not above three miles distant from the place where such distress shall have been taken.

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* This is copied from the second edition of the Revised Statutes (1836). By a more recent law, distress for rent is now altogether abolished in the state of New York.

6. All beasts or goods or chattels taken as a distress, at one time, shall be kept, as near as may be, in the same place. To be kept in one place.

7. Whoever shall violate either of the provisions contained in the two last sections shall, for every offence, forfeit to the party aggrieved 50 dollars, besides being answerable to such party for all damages sustained thereby; which damages may be recovered in the same action, or in another suit, at the election of such party. Penalty.

8. No officer shall proceed to make distress for rent, unless there be annexed to or delivered with the warrant of distress, an affidavit made by the landlord for whose benefit the distress is to be made, or by his agent or receiver, before some officer authorized to administer oaths, specifying the amount of rent due and the time for which it accrued. Oath to amount of rent due.

9. Within ten after any goods that shall have been distrained for rent shall be sold, or after such goods shall have been replevied, such officer shall file in the office of the town clerk the original warrant of distress, with the original affidavit of the landlord, his agent or receiver, delivered with such warrant. In the city and county of New York, in the city and county of Albany, in the cities of Troy, Hudson, and Schenectady, such warrant and affidavit shall be filed in the office of the clerk of the county. Any officer violating this provision shall forfeit 50 dollars to the person whose property shall have been distrained. Warrant and affidavit to be filed.

10. The following articles shall be liable to be distrained for rent:— Articles liable to distress.

1. Goods, wares, merchandise, utensils, furniture, cattle, provisions, and all other personal chattels, except such as are by law exempt from sale under executions in civil cases, and such as are by law exempt from distress.

2. Things annexed, for the purpose of trade or manufacture, to the freehold, or to any building, and not fixed into the wall of such building, so as to be essential to its support.

3. Wheat, corn, or any kind of grain, grass, hops, roots, or other produce, whether growing upon the demised premises, or whether the same be in cocks or sheaves, or loose, or in the straw, in any barn or granary, or elsewhere upon the land charged with the rent.

11. All goods or chattels that may be lawfully distrained, may be cut, gathered, secured, locked up, and detained, in such place on the premises as may be most convenient, or in such other place as may be provided by the landlord, and approved by the officer making the distress; but the articles enumerated in the second sub-division of the last section, and the produce of the soil in the ground shall not be removed until after a sale thereof as herein provided. Securing articles distrained.

12. It shall be lawful for the landlord to distrain any cattle or stock of the tenant feeding or pasturing upon any common in anyway belonging or appurtenant to the premises charged with rent. Cattle on highways.

13. Beasts of the plough, sheep, and the implements of a mechanic's trade, shall not be distrained for rent until other chattels sufficient for the demand cannot be found. Beasts of the plough, &c.

14. Personal property deposited with a tenant with the consent of the landlord, or hired by such tenant, or lent to him with the like consent, shall not be distrained for any rent due to such landlord; nor shall any property belonging to any other person than the tenant which shall have accidently strayed on the demised premises, or which shall be deposited with a tavern keeper, or with the keeper of any warehouse, in the usual course of their business, or deposited with a mechanic or other person for the purpose of being repaired, or being manufactured, be subject to distress or sale for rent; but the officer making the distress shall not be liable for seizing or selling property not belonging to the tenant, unless before such taking or sale notice of the claim of a third person be given to such officer. Certain property not to be distrained. Officer when liable.

15. The property of boarders at taverns and boarding-houses shall not be liable to distress for rent; but no officer making a distress shall be liable for seizing or selling property belonging to any such boarder, unless upon such taking or sale notice of the claim of such boarder be given to such officer.

16. Any goods or chattels of the tenants which shall be carried off from any demised premises, either before or after any rent shall become due, such rent being left unpaid, may be seized as a distress for any rent due at the time of such seizure, wheresoever they shall be found, within 30 days after their removal, if any rent be due at the time of such removal, or shall become due within the said 30 days; and if no rent be due or become due within that time, then such seizure may be made at any time within 30 days after the rent shall become due, and the goods so seized shall be sold, as if they had been distrained upon the demised premises. Seizing goods removed.

17. Such seizure shall not be valid in any case unless made within six months after the removal of such goods, and no such goods shall be liable to be seized which shall have been sold before such seizure made, in good faith and for valuable consideration, to a person not privy to such fraudulent removal. Goods sold not liable, &c.

18. Any tenant or lessee who shall remove his goods from any demised premises, either before or after any rent shall become due, for the purpose of avoiding the payment of such rent, and every person who shall knowingly assist such tenant or his lessee in such removal, or in concealing any goods so removed, shall forfeit to the landlord of the demised premises, his heirs or assigns, double the value of the goods so removed or concealed. Penalty for removing goods.

19. Whenever it shall satisfactorily appear to any justice of the peace, by the affidavit of any landlord or of any other competent witness, that any goods so removed from any demised premises have been put or are kept in any house, outhouse, or other place for the Search warrant for goods removed.

purpose of preventing their being seized as a distress for rent, such justice may issue his warrant to the officer authorized to make such distress, commanding him to go with the landlord or his agent, in the day-time, to the house or place named in such warrant as that where the said goods are kept, to search for the same, and, if need be, to break open such house or any enclosed place, and to seize such goods as a distress.

Distress to be reasonable, &c.

20. All distresses for any rent shall be reasonable, and whoever shall take any unreasonable distress shall be liable to an action on the case, at the suit of the party aggrieved, for the damages sustained thereby.

Keeping beasts distrained.

21. Whenever any beasts are distrained for any cause they shall be put in open pound, in the same county where they shall be taken, or in some convenient place on the premises, or in such other place as the officer distraining shall approve; and the owner of them may give them their feeding, without disturbance, so long as they shall be impounded.

Ib. property generally.

22. Whenever any beasts are impounded, or any goods that have been distrained are secured and kept on the premises charged with rent, they may be kept on the premises until sold; and it shall be lawful for any person to come and go to and from such place or part of the premises in order to view, appraise, buy, or to remove the same when purchased.

Notice to tenant if removed.

23. Whenever any cattle that have been distrained shall be impounded, or any goods distrained shall be secured in any other place than on the demised premises, due notice in writing of such place shall be immediately given by the person making such distress to the tenant, by personally serving the same, or in case of his absence by leaving the same at his place of abode with some person of mature age.

Rescue, &c. of property distrained.

24. Upon any pound-breach or rescue of any cattle, goods, or chattels distrained for rent, the person aggrieved thereby shall, in an action of trespass, or in a special action on the case for the wrong thereby sustained, recover treble the damages that shall be assessed by the jury against the offender in any such rescue or pound-breach, or against the owner of the goods distrained in case the same be afterwards found to have come to his use or possession.

Notice of distress, &c.

25. Whenever any goods or chattels shall be distrained for rent, the officer making the distress shall immediately give notice thereof, with the cause of such distress, the amount of rent due, and an inventory of the articles taken, by leaving the same with the tenant, or in case of his absence at the chief mansion house or at some other notorious place on the demised premises.

Appraisal of goods distrained.

26. If at the expiration of five days from the day of the service of such notice, the amount of rent due, together with the costs of the distress, shall not be paid, and the goods distrained shall not be replevied according to law, the officer making such distress shall summon two disinterested householders, who shall be sworn by such officer well, truly, and impartially to appraise the goods and chattels so distrained according to the best of their understanding, and the said appraisers shall thereupon appraise the goods and chattels so distrained, and shall state the same in writing under their hands.

Notice of sale; selling; proceeds.

27. Upon such appraisement being made, the officer conducting the proceedings, or any constable of the county, shall give five days public notice of the sale of the goods and chattels so distrained by affixing such notice on a conspicuous part of the demised premises, and also in two public places in the town, and on the day and at the place appointed shall proceed to sell the said goods at public auction at the best price that can be obtained for the same, and shall apply the proceeds of such sale to the satisfaction of the costs and charges of the said proceedings, and of the rent for which the said goods were distrained, and shall pay over the surplus (if any) to the owner of the goods.

Distraining where no rent is due.

28. The owner, and his personal representatives, of any goods that shall be distrained for rent pretended to be due, when in truth no rent is due, may, by an action of trespass, or trespass on the case, recover against the person so distraining, or his personal representatives, double the value of the goods so distrained.

Irregularities in distraining.

29. When any distress shall be made for rent justly due, and any irregularity or unlawful act shall be afterwards done by the party distraining or his agent, the distress shall not therefore be deemed unlawful, nor the party making it a trespasser from the beginning; but the party aggrieved may maintain an action of trespass, or of trespass on the case, and may recover full satisfaction for the special damages he may have sustained by such irregularity or such unlawful act, with full costs of suit, and no more, unless tender of amends hath been made by the party distraining, or his agent, before such action brought, which tender shall prevent the recovery of any costs in such action.

Pleadings in certain actions.

30. In any action of trespass, or trespass on the case, brought in relation to any entry upon premises charged with rent or service for the purpose of collecting or demanding such rent or service, or in relation to any distress, seizure, or sale of any goods thereupon, the defendant may plead the general issue, and give the special matter in evidence.

Revision and Digest; Notes on some practical Points.

By Mr. Brickdale.

The following considerations as to the nature and the mode of execution of the task committed to us by the Lord Chancellor, have occurred to me in the course of an attempt to make specimens of a Digest, in accordance with the desire expressed by his Lordship; and they are here submitted, not as final and matured opinions, but only as a statement of some of the doubts and difficulties which present themselves to a beginner as soon as he applies himself to actual performance. As such, they may be of some value in enabling us to obtain more definite instructions on such points as seem to require them.

The specimens of a digest to which I have referred will be found in a preceding paper; the subject chosen is the Law of Distress for Rent, a supposed chapter from the book containing the Law of Landlord and Tenant. The specimens are framed in three different ways;—1st, taking the mere *statute* law on the subject alone;—2dly, taking the *whole* law, both statute and common, and without introducing any simplification or other alteration;—3dly, taking the whole law, and introducing such alterations as would be generally admitted to be reasonable and desirable, without altering the general character of the law. In all the three specimens the law has been arranged and expressed so as to appear (as far as practicable) in a methodical order, and in the form of abstract propositions, as it is presumed that these characteristics are implied in the term "digest." I shall beg leave to refer to these specimens, by way of illustration, hereafter.

The objects indicated to us by the Lord Chancellor were the revision of the statutes, and the digesting and consolidating of the law. It therefore becomes necessary to consider what are the exact operations implied by those terms, and what is the best mode of performing them.

The operations which can properly be called a *revision* of the statute law, consist of the following:—

1st. The ascertaining what enactments are now distinctly and in terms repealed or expired. There is no absolute necessity for any legislative action as to these; but as it would be very convenient to have an infallibly authentic list of them, a declaratory act on the subject would be of great practical benefit.

2dly. The ascertaining what enactments, which have not been absolutely repealed, may properly be termed *obsolete*, in order that they may be forthwith repealed; and also, the ascertaining what enactments are in a state in which it is *doubtful* whether they are in force or not (although there has been an apparent intention on the part of the legislature to repeal them), owing to the old practice of alternate repealing and reviving, and the operation of the doctrine that a repealed statute is revived by the repeal of the statute which repealed it, and other causes of uncertainty.* These will require a declaratory act. Most of them, however, are also obsolete.

3dly. The ascertaining, by critical examination and comparison, what enactments, not in terms repealed, are in reality no longer in force, by reason of their

* See the classified list of the statutes down to the end of the reign of Anne, printed in the Report of the Commissioners on the Consolidation of the Statute Law (1835), for instances of the difficulties here referred to. The following is a specimen: "*3 & 4 Edw. 6. c. 16.*, repealed, 14 Eliz. c. 5., which "is expired; and continued in part, 3 Car. 1. c. 4. s. 14., 16 Car. 1. c. 4.; and repealed in part, "35 Eliz. c. 7. s. 24.; and generally, together with this act, 39 Eliz. c. 4., which is expired; and "continued, 3 Car. 1. c. 4. s. 22., 16 Car. 1. c. 4.; and repealed, 12 Anne, stat. 2. c. 23., which is "repealed, 13 Geo. 2. c. 24., but not to revive acts repealed; which is repealed, 17 Geo. 2. c. 5. s. 34., "but not to revive, &c. (by which it seems that 39 Eliz. c. 4. remains repealed, and consequently "14 Eliz. c. 5. is revived, and this act repealed); also repealed, 21 Jac. 1. c. 28. s. 11."

being inconsistent with, and therefore virtually repealed by subsequent laws on the same subject. As to these, like the acts in the first class, no legislative action is strictly necessary, but practically it is almost indispensable; because, though of course in very truth every enactment must be either repealed or unrepealed, yet, until there has been a legislative declaration about them, it would not, as to a considerable part of the enactments in question, be safe for any one to reject them altogether from consideration, nor to accept, without actual examination, the conclusions of any editor or text-book writer concerning them.

When these operations have been completed, and the necessary repealing and declaratory statutes passed, all that can properly be termed a *revision of the statute law* will have been accomplished; that is, the whole statute law which is now in force will have been extracted and ascertained.

The process of digesting and consolidating, and (in connexion with it) simplifying and amending the law, is one quite distinct from that of revision, and, in the natural course, would follow it after its completion; but as the Lord Chancellor seemed to desire that we should turn our attention to both processes, it is proper to consider whether it is practicable to any extent to carry on the two processes simultaneously, and whether, if a digest or consolidation were commenced first, the process of minute revision might be to any and what extent dispensed with.

These points will perhaps be more conveniently discussed after a few observations as to the principles on which a digest or consolidation of the law should be constructed, and the extent to which it appears practicable and desirable to carry it:—

1. In the first place it would seem that a digest of the statute law *only* cannot be made practically useful or satisfactory. The statute law is not a *branch* of the law which can be treated separately, but a component part of it; and (except of course as to those subjects which owe their existence entirely to modern legislation) the statute law is in fact only a collection of fragmentary exceptions and alterations, unintelligible except with reference to the whole law, which is to be found elsewhere. A digest of the statute law only will not therefore be a manual of the law, or, in fact, present any of the advantages which are generally expected from a digest,—it will neither be complete nor simple. To what extent it will be imperfect and practically useless may be inferred from the *first* part of the specimens which I have prepared on the principle of taking the statute law alone.

It is true that it is not impossible to consolidate into a more concise form, or even to state in the form of abstract propositions, the effect of the statute law only on any subject, assuming the common law to be known; and it may be thought advisable to attempt this. It may perhaps be sufficient to answer that such a consolidation or digest would be both considerably more difficult to make, and when made would be considerably less useful, than one which should embrace the whole law, common as well as statutory; and if, as I shall endeavour in the following pages to show, the simplification and amendment of the law must almost necessarily be combined with any effectual digest or consolidation of it, it will be the less necessary to consider this point.

I do not, however, mean by the preceding observations to contend that nothing practically useful can be produced without making a code enunciating all the first principles of the law, and so absolutely complete that it is to be understood that nothing is law except what may be found there; but only that no separation of common and statute law can be made where they are, in fact, intermixed, and the latter is only supplementary to the former.

2. Assuming then that in making any digest or consolidation, the *whole* law within the limits above mentioned, and not the statute law only, must be taken into consideration, I proceed to inquire what conclusions seem to be warranted by an examination of the second part of the specimens which I have prepared; being an attempt to present the whole present law of Distress, without alteration, in the form of a digest.

When a digest of the law is spoken of, it is generally expected,—1st, that it will consist of abstract and general rules or principles, or (to say the same thing negatively), that it will *not* be a collection of individual cases from which the law is to be deduced in new cases by analogical reasoning; 2dly, it is expected that it will be methodical, simple, and intelligible; and 3dly, that it will be complete,—will exhaust all possible alternatives. But when we examine the materials

out of which such a digest is to be composed, namely, the existing law, we find that its characteristics are in a great degree the very contraries of those required. The rules, where there are rules, are not simple, but contain numerous unnecessary sub-divisions; and for many possible contingencies there are no rules, except such as can be extracted from particular decided cases by analogy more or less perfect and satisfactory. It is needless to add that there is no method, for of course it is only in a code or digest that there *can* be method. To digest these materials it will be necessary, 1st, to classify them; 2dly, to extract from the established classes the exact principles on which they were decided, and to state those principles in abstract propositions; 3dly, to supply by analogy the rules for such possible events as do not seem to be provided for at all by the existing laws.

When this has been done, a complete digest of the law will certainly have been produced; but I apprehend that unless some considerable amount of discretion to *simplify and amend* as well as to digest the law in the course of their work is allowed to the persons employed, the result will not be of a nature to give satisfaction. The truth is, that the law, if it is to be taken exactly as it is at present, is not in a fit state to be made the subject of a digest. Made up as it is of rules originating in a bygone stage of society, adapted from time to time to the new necessities of successive generations by such alterations and alterations of the alterations as were found expedient, but rarely with any view beyond remedying such inconveniences as were actually felt, it is only by an *historical* statement of its birth and progress that it can be so presented as to be satisfactory to the mind of the inquirer; one may almost say, as to be intelligible. It is hardly possible to present side by side, and without comment, as parts of a symmetrical whole, the surviving fragments of the old rule, and the scattered exceptions with which it has been overlaid. In preparing the second part of the specimens of a digest, no pains have been spared to make it a digest of the existing law as methodical as was practicable, or to state the whole in the form of propositions as general and abstract as the case would allow; yet it will be seen how strange and unsatisfactory is the result; some of the rules plainly obselete or unreasonable, others almost unintelligible, others containing trivial exceptions or made subject to trivial conditions.

It has been suggested that the proper course to pursue may be to make an exact digest of the law as it now exists first, and to confine ourselves for the present to *proposing* in connexion with it, such improvements and simplifications as appear practicable and desirable, in order that they may be considered, and after consideration adopted or rejected, by the legislature. I would submit, however, that the toil of carefully digesting the existing law only for the purpose of showing how inexpedient, and needlessly complex, and otherwise objectionable it is, and how necessary it is to throw the result of our labours aside, and begin anew, would be so irksome and so discouraging that it could hardly be done *well;* and if not *well*, it is of course useless that it should be done at all. There is scarcely any process which requires more anxious thought than the attempt to state in an abstract form the whole, and no more than the whole, of the legitimate inferences from particular cases; it is a sufficiently severe task when required for a real and practical purpose, to decide a doubt or dispute which has actually arisen, for instance;—but to force the mind to exert itself thus for a purpose only experimental, as in ascertaining the exact limits of a rule which is altogether unnecessary and must evidently be swept away, could with difficulty be carried on honestly and completely for any length of time; especially by men who ought, if they are qualified for the more important part of their task, to be anxious to attain to practical results. The same objections apply also to commencing with experimental digests or consolidations of the statute law only.

It need not be apprehended that in order to enable the persons employed to produce a satisfactory result, it will be necessary that they should be authorized to make any *important* alterations in the law. If they were merely authorized to make alterations to which it is evident that no reasonable man could object, it would be almost sufficient; so great is the amount of complexity and imperfection which exists in the law almost *by accident*,—at least without any deliberate intention of the legislature,—but in consequence of the survival of some insignificant portions of an obsolete rule, or an unforeseen, though logical, inference from a chance decision, or the circumstance of successive exceptions having been made without reference to one another, and differing in some trivial

condition which prevents their being included in a single rule,—and the like.

In the third part of the specimens I have exercised, though sparingly, the power of remodelling, carrying principles to their legitimate results, and abolishing unnecessary distinctions; and (assuming that the subject chosen is a fair average subject) I think this specimen shows both how greatly such operations are needed, and how much in that way may be done without going beyond the limits of the most moderate discretionary powers. Probably indeed much greater improvements in this chapter of the law might have been made without introducing anything which could be objected to; and the fault most likely to be found with it is, that it is executed too timidly. For the present purpose, however, as an experimental specimen, it is sufficient. It may also be observed that it would of course be the duty of those employed to notice every point in which they have made *any* alteration in the existing law. In fact all the license that is required, both as to alteration and as to the incorporation of the common law, is no more than the least of what has been always allowed to, and must, whether consciously or not, have always been assumed by every framer of a good consolidated statute: as may be easily proved by examining any such statute, and comparing it with the previous state of the law; the only question is, whether the person employed is to be allowed to feel that he is not exceeding his commission in pursuing such a plan, or whether he is to perform his task hampered by the distressing consciousness that he ought to avoid doing what he nevertheless must do if he is to make any progress.

In addition to the considerations which the nature of the case suggests, we have the great advantage of being able to examine the actual working and results of experiments in revision and consolidation, which have been made on a large scale in some of the United States of America. A short examination of the "Revised Laws of New York," taken together with the Reports annexed to them, detailing the circumstances under which they assumed their present shape, will, I think, be a strong confirmation of the remarks I have ventured to make, as well with regard to the combination of the statute and common law, as to the introduction of amendments.

Previously to 1824 the legislature of New York had more than once caused the statute law to be "revised," as it was called; but these revisions "were "confined to a mere re-enactment in a consolidated form of statutes relating "to the same subject, with occasional amendments suggested by the revisors, "or inserted by the legislature. The statutes thus re-enacted were drawn "up in separate acts, and were written in that verbose professional language "so long employed in such compositions. They were merely divided into "sections, which were often of great length, frequently loaded with provisoes "and exceptions, and seldom arranged with any regard to method. A single "act sometimes embraced provisions on various subjects having no connexion "with each other; and as some of the most important statutes were left "unrevised, it not unfrequently happened that subjects which might with "great advantage have received a separate consideration, were partially treated "of in several different acts. A system of written law thus framed was "obviously incapable of any general scientific arrangement; and accordingly "no attempt was made, in either of the revisions referred to, towards any such "arrangement."

A new "revision" being required in 1824, the Commissioners to whom it was confided suggested the expediency of doing far more in the way of re-arrangement, simplification, and alteration, than had been done on former occasions; and having obtained the necessary authority from the legislature, they proceeded to carry their views into execution, and produced the code (as it may properly be termed) which is now substantially in force.

It is plain that the only task originally entrusted to the revisers, was the revision of the *statute* law; and in their preliminary reports we find them addressing themselves to that branch of the law only, and apparently considering that codification and simplification to the extent contemplated by them might be applied to the statute law only without touching the common law; they refer in their application for powers to the legislature to nothing but the *statutes;* and the act authorizing them to proceed refers to nothing but the *statutes* also. When, however, they actually commenced their task, it is evident

that they found it impossible to proceed on the basis proposed, without disregarding to a great degree the distinctions between the statute and common law; and an examination of the code will, I believe, show both that they have incorporated in it a great part of the common law, and that the parts where they have not done so are comparatively incomplete and fragmentary, and to the same extent useless. It is observed in the original preface, that "*in* " *numerous instances the rules of the common law have been reduced to a* " *written text, and inserted in their proper place in connexion with the* " *statutory provisions* on the subject to which they relate." On the other hand, the reader is apprised " that he is not to expect in this work, *all* the " law upon the subjects treated of in the revised statutes," inasmuch as "*the* " *statutory provisions concerning many of them form but a small portion of* " *our law upon the given subject.*" When we inquire as to the extent to which the revisers were authorized to simplify and amend the law, we find it to have been apparently very considerable. In the preface, we find them saying of such of the former statutes as are retained and consolidated in the code, that they have been "*materially modified;*" that "their details have been perfected; " that they have been conformed in express terms to the construction given to " them by the decisions of the courts; and that in many cases *new provisions* " have been introduced *essentially changing their principles;*" and of the rules of common law it is said that several of them " have been *enlarged, modified,* " *or varied,* the more fully to conform them to the nature of the government " and the habits and exigencies of the people."

" Throughout the work," it is further observed, " references will be found to " the statutes heretofore passed, containing provisions analogous to those in the " revised statutes. But it must not be inferred from any such reference, that " the former statute has been literally copied, *or even substantially adopted.* " On the contrary, whenever a provision on the same subject could be found in " a former statute, it has been invariably referred to for the purpose of enabling " the reader to ascertain the prior law; though in many cases that law is *either* " *only partially retained, or is wholly abrogated,* or *a principle directly the* " *reverse is adopted,* by the provision to which the reference is subjoined. In " most cases a reference is added to each section, indicating the particular part " of the former statute upon which the section is founded. But where " a chapter, title, or article, or several sections, are founded upon a single act, " that act only has sometimes been referred to, without designating its " particular parts. With these exceptions, those sections of the revised statutes " to which no references are subjoined will generally be found *to be entirely* " *new* as statutory provisions."

And again, at the conclusion of the preface, we find these sentences:

" Although the draughts of the revised statutes were prepared by the revisers, " it is due to truth and justice to remark, that in the course of enactment " *many alterations were made.* Some of these were proposed by the joint " committee, to whom the several chapters were referred, and others were " suggested by individual members of the legislature, who brought to the task " the various and practical knowledge so essential to the perfection of the " work; and who, with unwearied diligence, devoted their time and labour to " its completion. In connexion with this topic, it is hoped that it will not be " deemed out of place here to reiterate the acknowledgment made by the " revisers, in their last general report, of 'their grateful sense of the manner " 'in which the various propositions submitted by them, in the discharge of " 'their arduous and responsible duties, had been received and considered by " 'the respective houses;' and the avowal 'that they would have sunk under " 'the weight of responsibility attached to a work, so novel in character and " 'so vast in importance, had they not been sustained and cheered by the ready " 'co-operation of the legislature; and had they not felt a confident security in " 'the intelligence and discretion of those who were finally to pass [judgment] " 'on the result of their labours.' "

I cannot help calling attention to these last sentences. It is evident that with the legislature of New York the Codification of the Law was a popular measure in which the official revisers met with large assistance and encouragement. The importance of this advantage in such a work cannot be over-rated; whether, indeed, it is not hopeless to commence it, unless there is a fair prospect of enjoying a similar advantage, is a point well worthy of consideration

It would seem, then, that any digest or consolidation must, 1st, contain the statute or common law indiscriminately; and, 2dly, must contain simplifications and amendments of the existing law, considerable in number though not in importance; and, assuming these two positions to be admitted, it now remains to consider whether any such digest or consolidation can be advantageously commenced until after such a complete revision of the law as has been mentioned at the beginning of this paper.

This is the question of the most immediate importance of any; and it is greatly to be desired that it should be definitively answered. Until it is settled, we cannot proceed with steadiness or confidence.

If I may venture to offer an opinion on the subject, it seems to me that if it is determined that an entire and complete digest of the law shall be forthwith completed, the minute revision of the present statute law may, perhaps, be dispensed with altogether, as its results would be immediately superseded by the digest; and though it would be useful in making the digest, it would not be absolutely necessary for that purpose only. But if, as is more probable, it is intended to commence the work of digesting or consolidation by degrees, perhaps never to apply it to every branch of the law, but only to such as seem most to require it, or to be most suited for it, it seems that the revision must, at any rate, be made; and if so, I think we should turn our whole attention to doing this *first*, before we attempt anything in the way of alteration and amendment. The two processes (as already observed) are quite distinct, and cannot be carried on together, in the sense of assisting one another; of course, if thought advisable, they may be done simultaneously; that is, we may employ half our time on one, and half on the other. But for the following reasons it appears more expedient to employ ourselves exclusively on the revision in the first instance:—1st, it is a work which, unless completed, will be almost entirely wasted; for it does not appear practicable to classify the statutes by subjects for the purposes of revision; and it is, therefore, important to place it beyond the risk of interruption as soon as possible; while, on the other hand, *partial* digests or consolidations may be made, which would be beneficial as far as they go. 2dly, a digest is less likely to be made on a comprehensive and uniform plan, if we are at the same time engaged in another employment, different from it, and, in some respects, its contrary: it seems likely that the considerations connected with the one would intrude on those connected with the other, and produce embarrassment and delay. 3dly, the digest would be more easily, and probably better, made with the assistance of the revised statutes, and, therefore, they should be done first. It may also be added, that (assuming it to be admitted that a complete revision is, sooner or later, to be made) slight reasons are sufficient to determine the priorities of the different parts of our task.

M. I. Brickdale.

30th May 1853.

Notes on the Improvements which may be effected in future Legislation.

By Mr. Brickdale.

An improvement in the method of framing and promulgating laws for the future, is one of the first among the consequences which may be anticipated from the revision and digest of the existing law. Independently of objections as to want of order and completeness (which are in fact equivalent to complaints that the law is not digested and consolidated already), the objections commonly made to the statutes of recent times are—

1. That their style is needlessly verbose;
2. That they do not show with any certainty what is the law which they repeal or displace;
3. That changes in the law are made without sufficient consideration of all the consequences which they may have; and,
4. That changes in the law are made with reference only to the particular subject in which its inconvenience has been practically felt, instead of altering the principle of law which is the real cause of the inconvenience; which occasions unnecessary variety and multiplication of laws.

It would seem that of these four objections the first in great measure, and the other three almost entirely, are the direct result of the present undigested state of the law, and would not occur if a systematic digest of the law were in existence. To prove this it is only necessary to consider practically the action of the legislature whenever any alteration of the law is found expedient. If there were such a digest, the framer of the new law would have before him a complete and collected statement of the existing law which he intended to affect by his new enactment, and would therefore be able to show plainly what parts of it he intended to vary or displace; he would also have the means, or at least far better means than at present, of judging what collateral effects the proposed alteration would have, because in a well classified digest, the subject matter would fall into a place connected by references or otherwise with the other branches of the law over which the alteration would be felt; and lastly, if he found the law stated as a general proposition, it is not likely that he would, unless for some good reason, confine his alteration of it to the peculiar subject which may happen to have suggested it. At present, however, the course which a legislator is in practice almost compelled to follow is very different. He finds that a class is suffering injustice or inconvenience in consequence of the state of the law, which it is his duty to remedy; but he has not before him, at least not in any simple or accessible form, either the whole law on the subject, or any statement of the principle of law which is the cause of the evil complained of; and he therefore naturally confines himself to introducing a bill which remedies that specific evil, and no more; and even carefully avoids any appearance of interfering with principles for fear of effecting something which he did not intend, or unintentionally opening questions which would lead to opposition, and perhaps frustrate his only immediate object, the removal of the evil actually felt. It can hardly be necessary to speak of the bad effects of this common practice; the rule which really caused the mischief is not abrogated and replaced by a better one, but a mere exception is engrafted on it, which makes two rules instead of one, operates injustice (so far as it gives to one class exclusively a relief which might have been extended to all), and leaves a necessity for the multiplication of future laws in relieving the other classes successively, probably in each case with minute variations greatly increasing the complexity of the law, and interfering with its easy working; yet it seems nevertheless to be probable, that the practice will to a great extent continue

until the law has been by some means so far systematized that what is now the more difficult becomes the easier course; that is, until the legislator has before him such a general chart of legal principles, that it is more safe and easy to refer an admitted evil to its cause, and remedy that cause, than to remedy the particular evil only, and leave to the future the task of remedying similar evils arising from the same cause, as they come to be felt. At present the latter course is the safest and easiest, for the reasons already given.

By way of illustration of the foregoing observations, I may take an instance from the law of Distress, on which I have already prepared some specimens of a digest, which will be found in a previous paper. Among the articles which by common law were exempt from distress were all articles *lying loose*, which could not be identified so as to be replevied; a rule of course arising from the old nature of the remedy, which only empowered the landlord to retain the distress as a pledge until he was satisfied his rent, without any power to convert it into money and pay himself. The result of this rule was (and I imagine still is) that a landlord who finds the amount of his rent in cash lying loose on his tenant's table cannot take it, though he may take the table on which it is lying; but as it rarely happens that a distress is made on a tenant possessed of loose ready money, the articles as to which the rule was most commonly felt to be inconvenient were corn, hay, &c., belonging to agricultural tenants, which were considered to fall within the description of goods lying loose; except (as was decided in an early case), sheaves of corn deposited in a cart, which might be seized with the cart "because they were thereby distinguishable "from other sheaves;" and accordingly the law was altered for the protection of the landlord by the following enactment:—"And whereas no sheaves or "cocks of corn, loose or in the straw, or hay, in any barn or granary, or on any "hovel, stack, or rick, can by the law be distrained, or otherwise secured for "rent, whereby landlords are oftentimes cozened and deceived by their tenants, "who sell their corn, grain, and hay to strangers, and remove the same from the "premises chargeable with such rent, and thereby avoid the payment of the "same: be it further enacted, that for remedying the said practice and deceit, "it shall and may from and after the said first day of June, be lawful to and "for any person or persons having rent in arrear, and due upon any such "demise, lease, or contract as aforesaid, to seize and secure any sheaves or "cocks of corn, or corn loose or in the straw, or hay, lying or being in any barn "or granary, or upon any hovel, stack, or rick, or otherwise upon any part of "the land or ground charged with such rent, and to lock up or detain the same "in the place where the same shall be found, for or in the nature of a distress, "until the same shall be replevied upon such security to be given as aforesaid; "and in default of replevying the same as aforesaid, within the time aforesaid, "to sell the same after such appraisement thereof to be made; so as never-"theless such corn, grain, or hay so distrained as aforesaid be not removed by "the person or persons distraining, to the damage of the owner thereof, out of "the place where the same shall be found and seized, but be kept there (as "impounded) until the same shall be replevied, or sold in default of replevying "the same within the time aforesaid." (2 W. & M. sess. 1. c. 5. s. 3.)

This singular piece of exceptional legislation, which is scarcely intelligible without the assistance of some account of its origin, leaves, it will be observed, the old rule as to "things lying loose" untouched, except as regards the objects specially enumerated, although it is contained in the very same act which in a previous section empowers the landlord to sell the goods which he has seized, and thus abrogates the sole reason on which the old rule was founded. And in consequence there remains to this day great uncertainty as to the lawfulness of seizing a very large class of objects, including money; even all kinds of agricultural produce are not provided for, roots and pulse for instance; though these may be seized *while growing* by force of another statute, the 11 Geo. 2. c. 19. s. 8.

Now it surely cannot be doubted that if at the time when it was found necessary to remedy the inconvenience of not being able to distrain the corn and hay of a tenant, and of not being able to sell goods seized for distress, the legislator had had distinctly before him the general proposition that "goods of "such a nature that they cannot be identified for the purpose of replevin are "exempt from distress," he would have amended the law by enacting that

thenceforth such goods *might* be taken in distress; and thus a complete and simple rule would have been provided.

The law of Distress furnishes another good illustration of the practice of legislating by piecemeal, which is generated by the undigested state of the law. The common law exempted from distress all goods and chattels "in the custody of "the law" under any legal process; but this being thought to operate unjustly on the landlord, partial exceptions from the effect of the old rule in favour of the landlord have from time to time been made; but instead of the landlord's rights being uniform in all such cases, there are now at least four variations:—

1. Where goods are taken in execution by the sheriff under process of the superior courts, the power of distress for rent is gone; but the sheriff is to pay to the landlord any arrears of rent within certain limits.
2. Where the goods are taken under process of a county court, the rule is similar; but the amount of arrears payable to the landlord in certain cases is not the same.
3. In the case of bankruptcy, the right to distrain is not taken away, but the amount of arrears which may be distrained for is limited.
4. In the case of insolvency, the rule is similar, but with minute variations as to the goods which may be seized. (See for the particulars, the specimens of a Digest, Part II., sections 26, 27, 33, 34; Part III., sections 18 to 21.)

With respect to the great length and verboseness of the statutes, these, to a certain extent, are merely *literary* faults, which do not appear to require, or indeed to admit of, any remedy beyond what can be effected by a resolution on the part of those concerned in the drawing of statutes to use more concise language; though some attempts have recently been made at direct legislation on the subject, on which a few observations will be found in the sequel. But the great length of statutes is, in a considerable degree, owing to causes connected with the present undigested state of the law. 1st. Because it is frequently necessary to introduce long recitals of former statutes by way of preface, before the nature of the proposed change can be made intelligible. 2dly. Because the practice of legislating for special cases only (already shown to be the consequence of the undigested state of the law) involves long details and enumerations of particulars which would be avoided in a more general enactment. 3dly. Because the same causes make it necessary to provide over and over again for numerous matters collateral to the principal subject in a large number of special statutes, which, under a different system, might be provided for, once for all, by one general rule. For instance, there is scarcely a statute imposing a penalty which does not contain some provisions as to the tribunal by which it is to be awarded, and the mode in which it is to be levied; the whole of which would be always unnecessary if the most convenient mode that can be devised were made, once for all, the rule as to all penalties. It must be expected that, on collateral subjects of this kind at least, the legislator will at present content himself with obtaining an improvement of the law with reference to the matter in which he is immediately interested, with little, or comparatively little, regard to the general improvement of the law, until (as already observed) the whole law is in such a form, that the practice of legislating by the way of exceptions is made inconvenient and unusual.

The extent to which the statute book is encumbered by additions to, or alterations from the general law in favour of a series of particular cases, repeated over and over again (generally with minute variations) in each instance, is well known to all who have occasion to examine it. Evidence of a most valuable kind, as to the probable tendency of a systematic arrangement of the law to make future legislation brief and plain, is to be gathered from the records of the legislature of the State of New York, a country so nearly resembling our own in most of the circumstances likely to affect the form and characteristics of laws.

Taking the laws of New York for the year 1847 (the latest which I happen to have an opportunity of examining), I find that the whole of the statutes passed in that year, 290 in number, all printed at full length, are comprised in 373 pages of a very moderate octavo size, the type being larger and wider printed than that used in our quarto edition of the statutes. It is proper to mention that many of these statutes are of a merely private and personal nature,

some appointing individuals to offices, others incorporating trading companies, &c., and contain only a few lines, being acts which in this country would be done by the Crown, or by some public department, without application to Parliament; but on looking at those which affect the general law, we find them almost as brief. The following will serve as specimens :—

Chap. 4.

"An Act to amend an Act passed January 31, 1846, entitled 'An Act in " ' relation to the trial of convicts in county and state prisons.'

"The people of the State of New York, represented in senate and assembly, do enact as follows:

"1. The court in which any indictment is pending for a felony, against any " person imprisoned on conviction of a crime, in any county jail or state prison, " is hereby authorized to issue a habeas corpus for the purpose of bringing the " individual so indicted before such court for arraignment or trial, on such " indictment.

"2. This act shall take effect immediately."

"Chap. 9.

" An Act to alter the word May to February, in the Act therein mentioned.

"The people of the State of New York, represented in senate and assembly, " do enact as follows:

"1. The word May, in the third section of the Act entitled 'An Act for " ' the benefit of the New York Guardian Insurance Company, in the city of " ' New York,' passed May 12, 1846, is hereby altered to February.

" 2. This act shall take effect immediately."

"Chap. 12.

"An Act to amend the 83d section of title 4, ch. 2., of the fourth part of the " revised statutes, concerning the allowance of writs of certiorari in criminal " cases.

"The people of the State of New York, represented in senate and assembly, " do enact as follows:

" 1. Whenever any indictment shall be pending in any court of oyer and " terminer for the crime of treason against the people of this state, or of " murder, or of arson in the first degree, and the person indicted is in custody, " a writ of certiorari to remove the same into the supreme court may be " allowed by a justice thereof, without taking any recognizance for the appear- " ance of such person in said court.

" 2. This act shall take effect immediately."

"Chap. 30.

" An Act to amend the Act entitled 'An Act to incorporate the Mutual " ' Insurance Company of Buffalo,' passed April 18, 1843.

" The people of the State of New York, represented in senate and assembly, " do enact as follows:

" 1. The eleventh section of the Act entitled 'An Act to incorporate the " ' Mutual Insurance Company of Buffalo,' passed April 18, 1843, is hereby " amended by striking out the words 'first month after the expiration,' in the " fourth line of said section, and inserting in lieu thereof, 'month of February' " 1848, and annually thereafter.

"2. The twelfth section of said Act is hereby amended by striking out of the " third line thereof, the words 'first month,' and inserting in lieu thereof, " 'month of February.'

"3. This act shall take effect immediately."

"Chap. 99.

"An Act to amend the revised statutes concerning mortgages to the people of "this state, and the foreclosure thereof.

"The people of the State of New York, represented in senate and assembly, "do enact as follows:

"1. Section eighteen, title six, chapter nine, part first of the revised statutes, "is hereby amended and shall read as follows:

"'18. Whenever any premises mortgaged to the people of this state, shall be "'sold and purchased by any person other than the attorney-general, and not "'redeemed, a conveyance shall be executed to such purchaser, his heirs or "'assigns, at the expiration of the time allowed for redemption, on payment by "'him or them of the balance of the purchase money on the execution of the "'proper securities therefor.'

"2. This act shall take effect immediately."

Among the most evident merits of these specimens is the resolute use of the concisest language possible. With respect to this it is particularly important to observe that previously to the first formation of the code in 1824, the usual language of the legislature was similar to that now in use in our own statutes. Speaking of previous imperfect revisions the framers of the code observe that, "they were confined to a mere re-enactment, in a consolidated form, of "statutes relating to the same subject, with occasional amendments suggested "by the revisers, or inserted by the legislature. The statutes thus re-enacted, "were drawn up in separate acts, and were written *in that verbose professional* "*language so long employed in such compositions.* They were merely divided "into sections, which were *often of great length,* frequently *loaded with pro-* "*visoes and exceptions,* and seldom arranged with any regard to method. A "single act sometimes embraced provisions on various subjects having no con- "nexion with each other; and as some of the most important statutes were "left unrevised, it not unfrequently happened, that subjects which might, with "great advantage, have received a separate consideration, were partially treated "of in several different acts. A system of written law thus framed, was "obviously incapable of any general scientific arrangement; and accordingly "no attempt was made, in either of the revisions referred to, towards any such "arrangement." Hence it may fairly be inferred that this altered and improved style is the direct result of the code.

Another advantage of the code which is immediately apparent is is the great facilities which it gives for amendment or addition. Where the law is so arranged that any new enactment can at once be put into its proper place, it is obvious that a vast quantity of the matter which we find commonly inserted in our statutes, which is in fact only explanatory of the place which they are to take in the general system of the law, and the extent to which they are to displace former rules, may be dispensed with. The convenience of the system of at once repealing an objectionable law, and replacing it by another, by enacting that "such and such an article shall be read as follows," is particularly observable.

The establishment of a permanent legal board for the preparation, revision, and arrangement of bills and acts of Parliament has often been suggested, with a view to the improvement of future legislation. The project which it appears is sometimes entertained of a board to which *all* bills and amendments should be submitted, either before being brought before the House, or after having passed through committee, seems, indeed, impracticable, at least open to very serious objections; but there can be little doubt that there is employment in which a board of revision, properly constituted, would be of very great service, whether the present method of legislation be retained, or a digest or consolidation of the law be effected. In the former case their office would be to prepare all government bills, to report on such bills of private members as might be referred to them, &c.; and the benefits to be expected would be, that a uniform and im-

proved style of drawing would be gradually introduced, that many unnecessary bills would be stopped, many partial measures made more comprehensive, and generally the legislation of each session kept more in harmony with itself and with the whole law.

But it is chiefly with reference to a digest that the project of a legal board is here mentioned; because it would appear that if a digest were in existence, it becomes practicable to do by a simple and convenient process what has never yet been done, and probably cannot be done under the present system, though undoubtedly desirable, namely, to give to the public periodically an authentic text of the statutes, revised and corrected, so as to include only the law in force at the present time. The problem to be solved in providing for a publication of this kind, is how to ensure that the alterations of the previous law which it contains shall be accepted as authentic; and at the same time to avoid the necessity of passing the complete revised edition through Parliament every year, with all formalities, as a new act, before it can be relied on as containing the whole law, and nothing else. Now, assuming that an original digest has been once prepared, and has been declared to be the law of the land by authority of Parliament (as it necessarily must be in the first instance), it seems quite feasible that the statutes of each succeeding session should be incorporated in that digest by an official board, which should insert additions and alterations in their proper place, and omit what has been repealed; such a revised and certified edition to be published periodically, by authority, and to be *primâ facie* evidence of what the law actually is, and only liable to be disputed by direct averment and proof that an error has been made.* It may, it is true, be objected to this, that such a publication would still not be absolutely authentic and indisputable; and therefore the public, or at least the legal profession, would still not be relieved from the necessity of studying for themselves the subsequent statutes, as well as the digest. But though this objection is just on strict principle, yet it might and would be disregarded in practice with perfect safety, so soon as the law is in such a state that the new statutes may, with ordinary care, be arranged in their places, without any questions of constructive repeal, of whether a new clause is additional and substitutional, and similar niceties. When the law is altered, by enacting that "section 10 of chapter 20 shall be "read as follows," or that "the following two sections shall be added to chapter "30," no error on the part of the board could be reasonably apprehended; and it cannot be doubted that the revised and certified editions would (under the circumstances supposed) be accepted as authentic and accurate, with the same confidence with which copies of statutes printed by the Queen's printer are now accepted; which, it should be remembered, are also liable in strict theory to the same objection, for it is open to any one to aver and prove that the copy varies from the original Parliament roll.

It may be said that in order to obtain the benefits to be expected from the establishment of an official board for the purposes above suggested, there is no need to make a digest of the present law, or to change the practice of future legislation, and that such a board might revise and periodically publish the statutes in their present form. In answer to this, it is admitted that even if no re-arrangement of the law be contemplated, such a publication would be to a certain extent both useful and proper; but it would almost entirely fail at the very point where an authentic and official character in such a work is most needed. The mere rejection of statutes distinctly and unequivocally repealed, and the insertion of new enactments, however useful, are just what any private editor might do in a way on which, in practice, full reliance might be placed; in fact any owner of a set of the statutes might do it for himself without difficulty; but in all those cases, so numerous under the present system, where the extent to which the former law is repealed or altered by a later, is to be ascertained by critical examination and comparison of the two, by inquiry whether a recent enactment is intended to supersede or only to be complementary to an earlier one, and similar processes, involving the application of subtle rules of construction, and very frequently leading to no result except that the point is

* Such a board might also publish an official list of addenda and corrigenda for each year, so that every one possessing a copy of the digest might correct it for himself. Many other arrangements from which the public would derive benefit would also no doubt suggest themselves as soon as such a board was actually working.

doubtful*,—in all those cases a board, which could not properly be entrusted with any judicial, still less with any legislative powers, would find themselves compelled in most cases to leave the difficulties as they found them, and to print the old law and the new law together; or if they did attempt to solve the doubts to the best of their ability, it would be in a way which would not be accepted as conclusive; the doubts would still remain, and the necessity of investigating the whole question for oneself in every case would not be dispensed with.

In New York, it is not even thought necessary to have an official board to publish revised editions; they are produced by private enterprise. There is, however, a provision that no copy may be read in evidence unless certified by the secretary of state, or by two of the original revisers, that it is a correct transcript of the first edition, except as altered by subsequent acts. (Laws of 1830.)

In the preceding pages some reasons have been adduced for concluding that it is not probable that much improvement in the style and practice of legislation will take place except in connexion with some considerable re-arrangement and consolidation of the existing law; but some attempts have been made to ensure brevity and uniformity in future acts of Parliament by legislative provisions, on which I propose to make a few observations, chiefly for the purpose of considering whether the principles on which they are based can be extended to other subjects. It is scarcely necessary to add that independently of any formal or compulsory rules on the subject, every one who is ever engaged in drawing an act of Parliament has it in his power to introduce an improved style in that instance, and at the same time to set an example which cannot fail to have *some* effect.

The principal attempts which have been made in recent times to effect brevity and uniformity in acts of Parliament may be classed into,—

1. The Consolidation Acts.
2. The practice of introducing "interpretation clauses."
3. The act of 13 & 14 Vict. c. 21. "For shortening the language used in acts of Parliament."

The first of these is by far the most important, and it cannot be denied that an immense amount of repetition has been saved, and to the same extent uniformity ensured, by the General Inclosure Act of 1801, and the more recent Companies Clauses Act, Railways Clauses Act, &c. At the same time it may be observed that they are themselves open to the common charge of diffuseness of style; and it would also seem that all the recent acts are framed in a way which is faulty in principle. The right way to make it unnecessary to have long railway acts would be to enact that all railway companies incorporated by Parliament should have such and such powers. The Railways Consolidation Act however does not exactly do this, but leaves it still necessary to confer all the necessary powers on each company separately, only providing a compendious method of doing so by reference to a model form. The right way to ensure brevity is so to settle the law that there shall be but little to say. The method of the consolidation acts in question is to leave it still necessary to say a great deal, but to provide an abridged way of saying it. This method in its nature is more likely to lead to confusion and to unintended results than the other; and it is observable that the first of the consolidation acts, the General Inclosure Act, is framed on the contrary principle; and I should suggest that if other consolidation acts are contemplated, it ought to be carefully considered whether that is not the safest and most really convenient, as well as the most scientifically correct of the two.

Of the other attempts to effect improvements in the style of legislation by direct enactment, the act "for shortening the language used in Acts of Par-" liament," is open to some objections in point of principle. The fifth and sixth sections are attempts to provide generally that a draftsman may be careless

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* The modern case of The Queen v. Dunn, 12 Q. B. Rep. 1026. 1031. shows what great caution would be necessary in assuming constructive repeals. It was held in that case by the court of Queen's Bench, and also, on appeal, by the Exchequer Chamber, that the provisions of 5 & 6 Vict. c. 122. enabling creditors to make their debtors bankrupt, did not repeal the provisions of the 1 & 2 Vict. c. 110. s. 8. on the same subject.

without his carelessness having any bad effect; but it is obvious that the only effect which provisions of this kind are likely to have is to encourage carelessness, and that the attempt to provide by anticipation that an ill-drawn act shall do as well as a well-drawn one must be ineffectual. Some more extended remarks on this statute are added at the end of this paper, and I would beg to submit that some of its provisions are rather an impediment than an assistance to the proper drawing of acts of Parliament, and that it may be found advisable to repeal it.

The practice of inserting "interpretation clauses" has grown to be almost universal in modern legislation, but it is one to which there are very serious objections. Such clauses are for the most part the resource either of over-cautiousness or indolence; and it is certain that with one or two exceptions (which ought to be provided for by a general list of rules of construction applicable to all statutes), a proper attention to the choice of words would make interpretation clauses unnecessary. It is not *definitions* that are here spoken of; wherever the meaning of a word is *uncertain*, it is of course proper to ascertain its limits distinctly; but in interpretation clauses we commonly find that a word having a definite and well-known meaning, has some further meaning attached to it; so that, by what Sir William Blackstone calls "parliamentary magic," it is at once itself and something else. There is an obvious danger that the word will sometimes be used in its primary sense, and sometimes in the sense attached to it by the interpretation clause; and this danger is greatly increased if the "interpretation" is not connected with the particular act to which it is to apply, but is made a general rule applicable to all acts; as, for instance, in the enactment (section 4.) of the act above mentioned, "for shortening the lan-" guage used in acts of Parliament," that the word "land" shall in all future acts mean "hereditaments." It is to be expected that some serious mistakes must be made in consequence of this enactment, for nobody in using the word "land" would in the first instance suppose that he was dealing with *advowsons*, or *tithes*, or *fisheries*, which are all "hereditaments." Strong disapprobation has been expressed by some of the judges of the present indiscriminate resort to provisions of this kind.

On examining the "interpretation clauses" of most statutes, it will be found that nearly all of them are either unnecessary or positively objectionable. Those in the Railway Clauses Act may be taken as an instance; they are here copied, with remarks annexed:—

	Remarks.
II. The expression "*the special act*," used in this act, shall be construed to mean any act which shall be hereafter passed which shall authorize the taking of lands for the undertaking to which the same relates, and with which this act shall be so incorporated as aforesaid; and the word "*prescribed*" used in this act in reference to any matter herein stated, shall be construed to refer to such matter as the same shall be prescribed or provided for in the special act, *and* the sentence in which such word shall occur shall be construed as if, instead of the word "prescribed," the expression "prescribed for that purpose in the special act" had been used; and the expression "*the works*" or "*the undertaking*" shall mean the works or undertaking, of whatever nature, which shall by the special act be authorized to be executed; and the expression "*the promoters* of the undertaking" shall mean the parties, whether company, undertakers, commissioners, trustees, corporations, or private persons, by the special act empowered to execute such works or undertaking.	Quite unnecessary; the words could not mean anything else. Ditto;—besides which, the word is interpreted twice over. Ditto. Ditto.
III. The following words and expressions, both in this and the special act, shall have the several meanings hereby assigned to them, *unless* there be something either in the subject or context repugnant to such construction; (that is to say,)	The effect of this qualification is that wherever there is any doubt, the interpretation goes for nothing. See, for instance, Grant v. Ellis, 9 Meeson & Welsby, 113, as to the meaning of "rent."

Words importing the singular number only shall include the plural number, and words importing the plural number only shall include the singular number:

Words importing the masculine gender only shall include females:

By the proper use of general terms, these enactments as to number and gender may be made unnecessary, without any repetitions of "he, she, or they," &c.

The word "*lands*" shall extend to messuages, lands, tenements, and hereditaments, of any tenure:

If "lands" is always to mean "hereditaments," why not *say* "hereditaments," and dispense with the interpretation?

The word "lease" shall include an agreement for a lease:

The word "month" shall mean calendar month:

The expression "*superior courts*" shall mean her Majesty's superior courts of record at Westminster or Dublin, as the case may require:

Unnecessary; could not mean anything else.

The word "*oath*" shall include affirmation in the case of quakers, or other declaration lawfully substituted for an oath in the case of any other persons exempted by law from the necessity of taking an oath:

Unnecessary; the acts empowering quakers, &c. to make affirmation in lieu of oath being *prospective.*

The word "*county*" shall include any *riding or other like division of a county*, and shall also include county of a city or county of a town:

"Riding or other like division" itself requires a definition; "county of a city," &c. unnecessary.

The word "sheriff" shall include under sheriff, or other legally competent deputy; and where any matter in relation to any lands is required to be done by any sheriff or by any clerk of the peace, the expression "the sheriff," or the expression "the clerk of the peace," shall in such case be construed to mean the sheriff or the clerk of the peace of the county, city, borough, liberty, cinque port, or place where such lands shall be situate; and if the lands in question, being the property of one and the same party, be situate not wholly in one county, city, borough, liberty, cinque port, or place, the same expression shall be construed to mean the sheriff or clerk of the peace of any county, city, borough, liberty, cinque port, or place where any part of such lands shall be situate:

This is generally unnecessary, as the act of a "competent deputy" is the act of the sheriff; but the additional meaning hereby given to the word "sheriff" introduces much confusion in subsequent clauses of the act. For instance; by section 39, the promoters, if a jury is required, are to issue their warrant "*to the sheriff*," requiring him to summon one; and "if *such sheriff* be interested in the matter," application is to be made to the coroner. May a warrant be addressed to the *under* sheriff? If the *under* sheriff is interested, are the promoters to go to the coroner? It is evident that in drawing this clause it was forgotten that "sheriff" meant "under sheriff and deputy." Again: by the 44th section, a penalty of 50*l.* is imposed on "the sheriff" in case he make default in summoning a jury, &c.; but it does not appear whether in this case the rule that the sheriff is responsible for his deputy is to be retained, or whether the under sheriff himself is liable to the fine. Further complication is introduced by the 40th section, which enacts that, in the enactments relating to reference to a jury, "sheriff" shall mean (in addition) "coroner, or other person lawfully acting in his place."

The declaration that sheriff or clerk of the peace shall mean sheriff or clerk of the peace of the county, &c. is superfluous, as that is the necessary meaning: the provision that where the land is in two counties, &c., either sheriff, &c. may act, is proper, but it should not be placed among "interpretations."

See the case Davies *v.* South Staffordshire Railway Company, in the Queen's Bench, 1851 (21 Law Journal), on the effect of this interpretation.

The word "justices" shall mean justices of the peace *acting* for the county, city, liberty, cinque port, or *place* where the matter requiring the cognizance of any such justice shall arise, and who shall not be interested in the matter; and where such matter shall arise in respect of lands

being the property of one and the same party, situate not wholly in any not county, city, borough, liberty, cinque port, or place, the same shall mean a justice acting for the county, city, borough, liberty, cinque port, or place where *any part* of such lands shall be situate, and who shall not be interested in such matter; and where any matter shall be authorized or required to be done by two justices, the expression "two justices" shall be understood to mean two justices assembled and acting together:

The last observation as to sheriffs applies to this also.

Where under the provisions of this or the special act, or any act incorporated therewith, any notice shall be required to be given to the owner of any lands, or where any act shall be authorized or required to be done with the consent of any such owner, the word "owner" shall be understood to mean any person or corporation who, under the provisions of this or the special act, would be enabled to sell and convey lands to the promoters of the undertaking:

The expression "the bank" shall mean the bank of England where the same shall relate to monies to be paid or deposited in respect of lands situate in England, and shall mean the bank of Ireland where the same shall relate to monies to be paid or deposited in respect of lands situate in Ireland.

This clause adds more to the act than if "bank of England" or "bank of Ireland" had been said wherever *necessary*.

Observations on the Act 13 & 14 Vict. c. 21. "for shortening the Language used in Acts of Parliament."

"I. Be it declared and enacted by the Queen's most excellent Majesty, "by and with the advice and consent of the Lords spiritual and temporal, "and Commons, in this present Parliament assembled, and by the authority "of the same, that every act to be passed after the commencement of this "act may be altered, amended, or repealed in the same session of Parliament, any law or usage to the contrary notwithstanding."

It seems doubtful whether the supposed rule, to obviate which it has now become usual* to add to a statute that "it may be repealed or altered by any "other act of the same session," ever had any real existence, at any rate since the 33 Geo. 3. c. 13., which provides that all acts shall take effect from the date of the royal assent. If, however, any declaratory enactment on the subject was thought necessary, it would have been better to have made it retrospective, as there are several instances of acts altered by other acts of the same session, though without the customary clause; see 1 Wm. & Mary, c. 8. and c. 25.; 1 Wm. & Mary, c. 9. and c. 17.; 11 Geo. 4. & 1 Wm. 4. c. 33. c. 39. and c. 71.; 1 & 2 Vict. c. 23. and c. 29.; 2 & 3 Vict. c. 11. and c. 29.

"Any law or usage to the contrary notwithstanding." These unnecessary words ought not to have been added to an act with such a title.

"II. Be it enacted, that all acts *shall be divided* into sections, if there "be more enactments than one, which sections shall be deemed to be substantive enactments, without any introductory words."

"All acts *shall be divided* into sections." Enactments of this kind are necessarily nugatory; they bind nobody, for an act *not* divided into sections would of course be valid, this section notwithstanding. "Which sections shall be "deemed to be substantive enactments, without any introductory words." This was probably inserted with reference to the rule of construction making

* It is only within the last few years that this practice has been at all general. As we go backwards, we find the clause more rarely; the earliest instance that I have noticed is in the 27 Geo. 3. c. 13.

distinctions between "separate and substantive clauses," and others. (Dwarris on Statutes, part 2. c. 10.) But the application of this rule must depend, not on any arbitrary divisions, but on the subject matter; and if any enactment was wanted, it should have been nearly the reverse of this second section—namely, that the question of "substantive or not substantive," should not be affected by *any* formal considerations, of which class introductory words of enactment are only one species, divisions of sections being another. As this section now stands, a clause separately numbered *must* be treated as "substantive," whether it make sense or nonsense.

"III. Be it enacted, that in any act, when any former act is referred "to, it shall be sufficient, if such act was made before the seventh year of "Henry the Seventh, to cite the year of the king's reign in which it was "made, and where there are more statutes than one in the same year the "statute, and where there are more chapters than one the chapter; and "if such act referred to was made after the fourth year of Henry the "Seventh, to cite the year of the reign, and where there are more statutes "or sessions than one in the same year the statute or the session (as the "case may require), and where there are more chapters or sections than "one the chapter or section or chapter and section (as the case may "require), without reciting the title of such act, or the provision of such "section, so referred to; and the reference in all cases shall be made "according to the copies of statutes printed by the Queen's printer, or to "the copies thereof contained in the reports of the Commissioners of Public "Records."

It is believed that there was no necessity for this clause, and that references to statutes by the numbers of chapters and clauses would never have been declared *unintelligible* by judges or others; and there are several instances of statutes referring to other statutes by the number of the chapter only before this enactment. (See for an early instance, the 2 & 3 Edw. 6. c. 13. s. 15.*) If, however, it was considered practically desirable to provide some concise and authentic way of referring to statutes, the proper way to do it would have been by some such clause as this: "References to statutes and parts of statutes may be "interpreted by reference to any copies printed by the Queen's printer." The enumeration of *particular cases*, instead of laying down a *principle*, is a departure from safe rules of drawing, and (as might be expected) is imperfect; for the framer of this clause forgot that there are three separate series of chapters in every session, so that the *number* is not enough to identify a *chapter*. This has already led to confusion, in one instance at least, in the act 14 & 15 Vict. c. 78., (coalwhippers); several acts of the "local and personal" series are imperfectly referred to by their numbers only, as if they were "public general" acts; and yet the requisitions of this third section are complied with. The mention of "copies of statutes in the reports of the Commissioners of Public "Records," is superfluous, for the existing publications of these Commissioners are printed by the Queen's printer, and it is presumed that there was no intention to include in this enactment future reprints not by the Queen's printer.

"Provided that where it is only intended to amend or repeal any "portion only of such section, it shall be necessary still either to recite "such portion or to set forth the matter or thing intended to be amended "or repealed."

This is an illustration of the strange style rendered necessary by the practice of legislating by the way of enumeration of individual instances. It will be observed, that it is hereby (in terms) rendered "*necessary*" to "recite or set "forth" the matter to be repealed where it forms only a "portion of a "section;" of which the legitimate meaning is that a future law *not* "reciting "or setting forth," &c., although expressly enacting the *contrary*, is to be *inoperative;* a provision which, like the second section, is, of course, nugatory, so far as it attempts to limit the power of the legislature to make laws in future in whatever form it may think fit. So that the whole effect of this proviso is in reality little more than a declaration that the legislator shall take care to

* "This act, or anything therein contained, shall not extend to give any minister or judge eccle-"siastical any jurisdiction to hold plea of any matter, cause, or thing being contrary or repugnant "to or against the effect, intent, or meaning of the Statute of Westminster second, the fifth chapter, "the statutes of *Articuli cleri*, *Circumspecte agatis*, *Silva cædua*, the treatise *De Regia prohibitione*, "ne against the statute of *anno primo Edwardi tertii*, the tenth chapter, or any of them."

express intelligibly what he means; another paragraph which might have been dispensed with in an act "for shortening the language used in acts of "Parliament."

"IV. Be it enacted, that in all acts, words importing the masculine "gender shall be deemed and taken to include females, and the singular "to include the plural, and the plural the singular, unless the contrary as "to gender or number is expressly provided; and the word 'month' to "mean calendar month, unless words be added showing lunar month to "be intended; and 'county' shall be held to mean also county of a town "or of a city, unless such extended meaning is expressly excluded by "words; and the word 'land' shall include messuages, tenements, and "hereditaments, houses and buildings, of any tenure, unless where there "are words to exclude houses and buildings, or to restrict the meaning to "tenements of some particular tenure; and the words 'oath,' 'swear,' and "'affidavit,' shall include affirmation, declaration, affirming, and declaring, "in the case of persons by law allowed to declare or affirm instead of "swearing."

Some observations have already been made on the objections to interpretation clauses, as distinguished from definitions, which are applicable to this section; with the addition, that being contained in a separate act, the double meanings which it gives to words are more likely to be overlooked by future draftsmen than if it formed part of the act on which they were actually engaged; especially, too, as the number of words to which these arbitrary meanings are thus affixed is so very small as to increase the likelihood of the whole enactment escaping the memory. If it was desirable to make general provisions of this kind, no reason appears why a great number of other words were not similarly treated; nor does it appear why the few here found were selected. The particular "interpretations" given are also liable to comment. It seems to be of little use to provide that a writer who wishes to speak of "hereditaments," shall have the power of saying "lands," with the understanding that the word is to mean "hereditaments," instead of saying "hereditaments" in the first instance; while, on the other hand, since, according to the ordinary use of words, there are many "hereditaments" which no one would call "*land*," such as advowsons, tithes, and fisheries, there is great danger that a future draftsman, in using the word "land," may, by force of this section, effect something which was far from his intention. The interpretation of "oath," again, is superfluous; for the acts which empower quakers, &c. to make affirmations, refer as well to oaths to be imposed by *future* acts as to the past.

"V. Be it enacted, that where any act repealing in whole or in part "any former act is itself repealed, such last repeal shall not revive the act "or provisions before repealed, unless words be added reviving such act "or provisions."

This, as a general rule, is objectionable, being contrary to correct principles of drawing and construction; at least so long as the present system is retained. The statute book does not profess to be a code of the whole law, and the natural effect of the repeal of any act is to restore the law to the state in which it was before that act was passed, and so it ought to remain. It is true that it has often happened that, owing to negligence, acts have been revived by the repeal of the repealing act, the repeal of which ought to have been continued; but the remedy for such inconveniences is to be found in more careful drawing, and not in making a rule, that an enactment shall have an effect contrary to its legitimate effect, on the supposition that it will be so ill-drawn that these two negatives will produce the result desired. Suppose three successive enactments of this kind:—

No. 1. "Burglary shall be punished with death."
No. 2. "No. 1. is repealed. Burglary shall be punished with transportation."
No. 3. "No. 2. is repealed."

The proper effect of this last enactment is to remit the law to the state in which it was before No. 2. was passed; and so it would be still, if No. 2. had not *in terms* repealed No. 1., but had only repealed it by the necessary implication from its substituted provisions; but under the present law, No. 1. would now continue repealed, and burglary consequently remain with no punishment at all awarded to it, owing to the *accidental* circumstance above-men-

tioned, that No. 2. repealed No. 1. *in terms*. This shows that such an enactment, as a general rule, is dangerous and improper. This method of amending the law by collecting the cases in which carelessness is commonly shown, and then providing, not that more care shall be taken in future, but that the effect of that particular piece of carelessness shall be neutralized by applying the rule of contraries, is surely not consistent with safe principles of legislation. The next section contains provisions to which similar objections apply.

> " VI. Be it enacted, that wherever any act shall be made repealing in " whole or in part any former act, and substituting some provision or pro- " visions instead of the provision or provisions repealed, such provision or " provisions so repealed shall remain in force until the substituted pro- " vision or provisions shall come into operation by force of the last made " act."

Where no time is expressly specified, the repealing and enacting parts of a statute would of course come into effect simultaneously; and in such a case this provision is superfluous; it can only have operation therefore in cases where *different* periods for repeal and new provision are *expressly specified*, in which case this section declares that notwithstanding such express specification the periods for repeal and new provision shall nevertheless *not* be different. In the first place this is an attempt to control the future powers of the legislature, and as such, probably void, like the 2d and part of the 3d sections; but independently of that objection, this section is a violation of the principles of good drawing; 1st, because it cannot be right to enact, prospectively, that words distinctly meaning one thing shall mean another: 2dly, because it is making the *construction* of the enactment depend on its *effect* (that is, on whether it produces *inconvenient consequences* or not), instead of the effect depending on the construction: 3dly, because it improperly leaves to the judge the task of deciding what is a provision "substituted for" a repealed provision, before he can tell whether an enactment is repealed or not. A ready way of showing the impropriety of an enactment of this kind, is by making it more general in its application, thus: "Whenever the repeal of an enactment *is found to have* " *inconvenient consequences*, it shall be deemed unrepealed;" or thus: " When " the framer of an enactment *says one thing but probably meant another*, he " shall be deemed to have said that which he probably meant." If it be urged that this section *may* have a beneficial effect (as has actually occurred, it seems, in the case of the County Polls Act, chapter 15 of this session), it may be answered, that it is very possible that some such general enactments as are above suggested might also have beneficial effects. In short, this clause, like section 5, is an attempt to provide, somehow, that future negligence shall do no mischief; an attempt which must be futile: to which it may be added, that provisions of this kind for the benefit of the negligent have a natural tendency to encourage negligence.*

> " VII. Be it enacted, that every act made after the commencement of " this act shall be deemed and taken to be a public act, and shall be " judicially taken notice of as such, unless the contrary be expressly pro- " vided and declared by such act."

A clause to this effect is commonly added to all private acts, but its meaning is indistinct. The framer probably only intended by this section to dispense with the necessity of *proving* private acts; but there are other distinctions between public and private acts as to *construction*, and as to *pleading*; and these " do " not depend upon any technical considerations, such as having the clause 'that " 'the act shall be deemed a public act,' but upon the nature and substance of " the case." (V.C. Wigram, Dawson v. Paver, 5 Hare.) It is presumed that there was no intention to alter these latter distinctions, but the words of this section leave the matter in doubt. A clause to the following effect would have been more proper:—" as regards judicial recognition, every act shall be deemed " to be a public act."

15th June 1853. M. I. Brickdale.

* The 48 Geo. 3. c. 106. is a singular instance of legislation of this kind. It provides that where a temporary act has expired and is afterwards revived, the new act shall take effect from the expirraion of the old. A proviso, however, is added, that this rule shall not extend to affect any person with any punishment, penalty, or forfeiture whatsoever by reason of anything done or omitted in the interval; which of course neutralizes the whole of the previous enactment.

APPENDIX

APPENDIX I.

Note by Mr. Rogers on the Lists of Statutes by the late Sir Henry Seton.

Amongst those who have directed their attention to the reformation of the statute book, and to an improved mode of framing future statutes, none have shown more zeal, learning, and patient research, or have expounded clearer views on the subject, than the late Sir Henry Seton.

The Commission were favoured by Sir Edward Ryan, at the commencement of their labours, with the custody and inspection of Sir Henry Seton's MSS. It would be difficult to say to which of those invaluable MSS. the highest place in order of merit should be assigned. The "Notes of Statutes," and the learned compiler's own account of the "Lists of Statutes" being in small compass, seemed well suited for a place in the Appendix to the present Report, and a place has there been assigned to them. These useful papers deserve to be read rather than commented upon.

The "Lists of Statutes" were found to be too voluminous to be printed in the Appendix; the following account will, however, explain their nature and extent.

They are bound together in one folio volume of about 500 pages. They commence with 9 Hen. 3. and conclude with 7 W. 4. & 1 Vict. Those of the period from 1 Edw. 3. to the end of the reign of Anne are printed, and formed part of the Appendix to the Report of the Commissioners on the Consolidation of the Statute Law (1835).

The lists are divided into three distinct classes :—

1. Statutes in force.
2. Statutes partly in force.
3. Statutes not in force.

All of these classes are divided into three periods :—

1. "Vetera Statuta," from 9 Hen. 3. to end of Edw. 2.
2. "Nova Statuta," from 1 Edw. 3. to end of Anne.
3. Acts from accession of House of Hanover to 7 W. 4. & 1 Vict.

The class "statutes in force" is subdivided into,—

1. General.
2. Criminal.
3. Constitutional.
4. Revenue.
5. Local and Personal.

The fifth subdivision would seem to be an incomplete term; it should have been "Acts of a merely local or personal application, but promulgated amongst the public general acts; "local and personal" being a technical term, descriptive of a distinct series of acts commencing in the 38th year of George 3., would, without explanation, lead to a mistaken inference.

The class "statutes partly in force" comprises all statutes in part repealed, arranged chronologically without reference to subject matter, but divided into the three periods before mentioned.

The class "statutes not in force" is subdivided into :—

1. Repealed.
2. Virtually repealed.
3. Obsolete.
4. Expired and virtually expired.

The statutes under each of these divisions are arranged in similar chronological order to those of the class "partly in force."

For the purposes of reference the lists as to the class "not in force," would possibly have been more useful had they formed but one list arranged chronologically, distinguishing by some symbol the repealed and virtually repealed, from the obsolete and the expired. This was found to be the case by the members of the Board who were engaged in compiling the "Expurgatory List," now under revision by Mr. Brickdale. The general correctness of the lists was abundantly tested by the gentlemen who compiled the "Expurgatory List," as although they invariably abstained from all reference to Sir H. Seton's lists till they had made their own, they generally consulted Sir H. Seton's lists to satisfy themselves, that they and he had arrived at the same results. They found generally that to be the case.

The accuracy of the lists can only have arisen from Sir H. Seton's great knowledge of the statute book; their compilation must have cost him great labour, and as they afford the strongest evidence of his large practical acquaintance with the state of the statute book, they would seem to afford cogent reasons for treating his "Notes on Statutes" with grave consideration.

APPENDIX II.

SIR HENRY SETON'S PAPERS RELATING TO THE STATUTE LAW.

I.

NOTES ON THE STATUTE LAW.

THE following observations were submitted to the Committee of the House of Commons on the Statute Law in 1836.

They relate to the classification of the statutes by the King's printer, under the authority of Parliament, and the changes which from time to time it has undergone, and suggestions for the improvement of it.

Some extracts from the reports of former committees on the same subject, and from other sources, have been subjoined, as connected with the general improvement of the statute law.

OBSERVATIONS ON THE CLASSIFICATION OF THE STATUTES.

The attempts hitherto made for the classification as well as the promulgation of the statutes have been chiefly through the medium of the King's printer.

The origin of the practice of authorizing the King's printer to print the acts at the close of each session has not been ascertained, but a regular series of the statutes so printed exists from the 1 Will. and Mary to the present time. (*a*)

And a like series exists of the Irish statutes from the same reign. (*b*)

In 1 Geo. 1. in the King's printer's edition of the English statutes, the acts of the session are divided into public and private. (*c*)

The public acts are printed at length, without numbering the chapters. (*d*)

A table is added, in which the heads of both public and private acts are printed, and the chapters numbered separately.

An abstract was afterwards added of the public acts, with a table of contents, and this practice continued until a late period. (*e*)

In 26 Geo. 2. the table in the King's printer's edition was, for the first time, divided into—

1. Public acts.
2. Public acts, not printed in that edition.
3. Private acts.

The chapters of the 1st and 2d, numbered in the table in succession, and those of the 3d separately.

In the 1 Geo. 3. the chapters are, for the first time, numbered at the head of the act, as well in the table; thus affording the first practical step towards convenient citation.

In 12 Geo. 3. the table is divided into—

1. Public acts.
2. Public acts, entitled road acts.
3. Private acts.

The chapters of the 1st and 2d are numbered, both at the heads and in the table, in succession, and those of the 3d separately.

The road acts are also printed separately.

(*a*) See Report of the Committee of the House of Commons on the Promulgation of the Statutes, 5th Dec. 1796, App. (B.)

(*b*) See preface to Irish Statutes at large, printed by authority, A. D. 1765. This edition was prepared by the King's printer under the inspection of the L. C. the Judges, in consequence of an address of the House of Lords to the Lord Lieutenant. See the preface.

(*c*) The distinction between public and private is said to have been made in the printed collections as to all statutes since the time of Richard 3. See Gresley on Evidence, p. 305.

(*d*) It would appear from the introduction to the edition of the Statutes by the Record Commission, p. xl. that the division into chapters was only to be found in the printed editions; and this division is first introduced into the text of the statutes in the above edition in 7 Hen. 7.; but see stat. 5 Eliz. c. 8 s. 24, post., in which the acts repealed by it are referred to by chapter and number.

(*e*) See Report on the Promulgation of the Statutes above referred to. The first abstract I have met with, is in the 4 Geo. 2.

In 15 Geo. 3. the term road acts is omitted, and the table is in the same form as before it was introduced.

In 21 Geo. 3. the sections of the chapters are, for the first time, numbered; thus affording the next step towards convenient citation.

Among the resolutions of the Committee on the Promulgation of the Statutes, reported to the House of Commons on the 20th March 1797, and which were afterwards agreed to by both Houses, there is the following:—

"That his Majesty's printer should also be authorized to class the general and the special statutes (viz. the public, local, and private acts,) of each session in separate volumes, and to number the chapters of each volume, together with a general table of all the acts passed in that session." (*a*)

In 38 Geo. 3., in pursuance of the above resolution, the table in the King's printer's edition was divided into—

1. Public general acts.
2. Public local and personal acts.
3. Private acts.

The chapters of each numbered, both at the heads and in the table, separately.

The public, local, and personal acts were also printed separately.

After the union with Ireland, similar resolutions to those of 1797 were adopted by both Houses, as to the statutes of the United Kingdom. (*b*)

By statute 41 Geo. 3. (United Kingdom) c. 90. s. 9., copies of the statutes printed by the King's printer in England previous to the union are made evidence in Ireland, and vice versâ.

In 43 Geo. 3., in consequence of resolutions of both Houses of Parliament, the following clause was added to certain local and personal acts:—

"And be it enacted, that this act shall be printed by the printer to the King's most excellent Majesty, and, when so printed, may be given in evidence in all courts of justice, and before all judges and justices whomsoever, who shall take judicial notice thereof in like manner as if the same had been declared a public act." (*c*)

But this clause was afterwards discontinued, and the following form adopted:—

"And be it further enacted, that this act shall be printed by the printer to the King's most excellent Majesty, and a copy thereof so printed shall be admitted as evidence thereof by all judges, justices, and others." (*d*)

These are usually termed quasi public acts.

In the above year (the 43 Geo. 3.) and with a view to the above resolution, the table in the King's printer's edition is divided into—

1. Public general acts.
2. Local and personal acts, to be judicially noticed.
3. Local and personal acts, not printed.

The chapters of each numbered separately as before.

The local and personal acts to be judicially noticed, consisting of acts declared public, and quasi public acts, are also printed separately.

An index is added to the public general acts, *distinguishing the parts of the United Kingdom to which they relate.*

In 55 Geo. 3., in strict conformity with the distinction introduced by the above resolutions, the table is divided into—

1. Public general acts.
2. Local and personal acts, declared public, and to be judicially noticed. (*e*)
3. Private acts, printed by the King's printer, and of which printed copies may be given in evidence. (*f*)
4. Private acts, not printed. (*g*)

The chapters of the 1st and 2d are numbered separately, and those of the 3d and 4th in succession.

The local and personal acts declared public are also collected separately.

And this arrangement has continued to the present time.

It is greatly to be wished that the practice of numbering the chapters and sections (so convenient for the purposes of reference) should rest upon some authority beyond that of the King's printer.

The consequence of the absence of such authority is, that the only legal mode of referring to an act of parliament is by the year of the reign and the title, and there is no legal mode of referring to a part of an act of parliament, except generally, or by actual

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(*a*) See Journals of the House of Commons, vol. 52. pp. 413, 510, 633.
(*b*) See Journals of the House of Commons, vol. 56. p. 324, 501.
(*c*) See Statutes of the United Kingdom, by Tomlyns, vol. 1. p. 1188.
(*d*) See Statutes of the United Kingdom, by Tomlyns, vol. 2. p. 589.
(*e*) These include acts for roads, canals, bridges, &c., and some acts not strictly local or personal, as joint stock companies.
(*f*) These include inclosure, estate acts, &c.; some of which are local and personal
(*g*) These include naturalization, divorce, name acts, &c.; most of which are personal.

recital of the part referred to, a mode, particularly in the repeal of statutes, attended with the utmost inconvenience.

This difficulty has been so much felt that the legislature, with greater regard to convenience than principle, has frequently itself referred to acts by the chapter and number. (*a*)

In the Report on the Promulgation of the Statutes, above referred to, there is the following recommendation as to the requisites to be observed in the introduction of bills into Parliament :—

" The numbering the sections upon the draft of every bill would facilitate the reference to the several parts pending its progress, and after such bill had received the royal assent the numbering the sections in the roll would furnish the means of correct citation." (*b*)

A similar difficulty is experienced from the want of authority for the title of the acts of the session generally, which, where the session extends beyond the year of the reign in which it commenced, is usually denominated as of that and the following year; a practice which, however convenient, is not valid in law (*c*), although the legislature has itself given countenance to it by referring to acts in this mode. (*d*)

Previous to the 33 Geo. 3. it was held that the denomination of the year of a session was that of the first day of it, and consequently that the act printed as the 29 Eliz. c. 5. was correctly pleaded as 28 Eliz., the session having begun in that year. (*e*)

But now by the stat. 33 Geo. 3. c. 13. the clerk of the parliament is to indorse the date of the passing of the act upon the roll, and such indorsement is to be deemed part of the act.

A further difficulty occurs where the year includes more than one session, in which case the acts of several sessions may be included under one denomination. Thus the acts of the sessions 11 Geo. 4. & 1 W. 4., of 1 W. 4., and of 1 & 2 W. 4. are all legally denominated as of 1 W. 4.

Among the resolutions founded upon the report above referred to, is the following :—

" That every bill presented for the revival of several statutes, or for the continuance of several statutes, should express in its title, that the same is for reviving or further continuing the several statutes therein mentioned, and should describe in its title every such stat. by its *year*, *chapter*, and day of passing, together with the precise duration proposed to be given thereto." (*f*)

It seems that for ordinary purposes, a reference to the session, chapter, and section, if fixed by authority, would be sufficient.

Among the resolutions founded upon the report above referred to, is the following :—

" That the precise *duration* of every new temporary law should be expressed in the title of the bill, and also in a distinct clause at the end of the bill, and no where else." (*g*)

It seems that a distinct clause (as in the Mutiny acts) is all that is required for practical purposes.

It may be worthy of consideration whether a like suggestion might not be usefully adopted as to the local extent of the operation of statutes. An attempt was made for this purpose, as we have already seen in the edition of the King's printer. It has been occasionally done of late, as in a recent act, 7 W. 4. & 1 Vict. c. 45. s. 6.

By stat. 20 Geo. 2. c. 42. English acts extend to Wales and Berwick-upon-Tweed.

They do not extend to the Isle of Man, &c., or the Colonies, unless expressly named. (*h*)

Since the union with Scotland, where acts are not intended to extend to it, it is usually excepted. (*i*)

By Poyning's Law, 10 Hen. 7., English acts previously passed were extended to Ireland.

Since that time and until the union, English acts were held not to extend to Ireland, unless specially named, or included under general words. (*k*)

By 22 Geo. 3. c. 53. the act of 6 Geo. 1. c. 5. for securing the dependency of Ireland was repealed, and by stat. 25 Geo. 3. c. 28. Ireland was only to be bound by the acts of her own Parliament. (*l*)

By Yelverton's Act, 21 & 22 Geo. 3. c. 48. (Ireland), all previous statutes of the Parliament of England or Great Britain relating to the matters therein mentioned are extended to Ireland.

The act above referred to (7 W. 4. & 1 Vict. c. 45.) being an English act, it seems that the clause (s. 6.) by which its operation is extended to Berwick-upon-Tweed is unnecessary.

The act for the abolition of Fines and Recoveries (3 & 4 W. 4. c. 74.) is also extended to Berwick-upon-Tweed by a clause in the Municipal Corporation Boundary Act, 6 & 7 W. 4. c. 103. s. 6.

(*a*) See stat. 5 Eliz. c. 8. s. 24., 26 Geo. 3. c. 30. s. 27., 38 Geo. 3. c. 6., 39 Geo. 3. c. 5., 4 & 5 W. 4. c. 21., 5 & 6 W. 4. c. 74. and others.
(*b*) See App. B. 1.
(*c*) See R. v. Biers, 1 Ad. and Ellis, 327.
(*d*) See stat. 3 & 4 W. 4. c. 48. s. 1.; 5 & 6 W. 4. c. 81. s. 1.
(*e*) See preface to Ruffhead's Statutes, p. 24.
(*f*) See Journals of H. of C., vol. 52. p. 413, &c.
(*g*) See Journals of H. of C., vol. 52. p. 413.
(*h*) See 1 Bl. Com., 105, &c.
(*i*) See R. v. Cowle, 2 Burr., 853.
(*k*) See 1 Bl. Com., 103.
(*l*) See preface to Gabbett's Abridgement of the Statutes.

The local extent of the operation of the statutes is thus stated in the preface to Tyrrwitt and Tyndale's Abstract :—

From Magna Charta to 10 Hen. 7.	England (including Wales and Berwick) and Ireland.
From 10 Hen. 7 to 6 Ann. - -	England (including as above.)
From 6 Ann. to 41 Geo. 3. - -	England (including as above) and Scotland.
From 41 Geo. 3. - - - -	England (including as above) and Scotland and Ireland.

The extent of the operation of statutes, with a view to their commencement, is a subject of greater difficulty, but well worthy of consideration, and which, although the object of careful provision in some of the earlier statutes, seems almost to have been lost sight of in the later ones.

The difficulties arising from the want of express provisions on this subject have been experienced to a considerable extent in all the modern changes of the law, as in the late Bankrupt Act (*a*), Lord Tenterden's Act (*b*), and more may be anticipated from the operation of the acts founded upon the report of the Real Property Commissioners.

An obvious step towards the removal of these difficulties would be by the introduction of a distinct clause in each act, limiting the commencement of its operation.

The modification of this clause, where the act was not solely prospective or retrospective, but partly both, might at first be attended with difficulty, but some attempt at certainty in this respect would be highly desirable.

In the exposition of the Statute of Gloucester, 6 Edw. 1., definite provisions are introduced with a view to this object, and in others of the earlier statutes, the caution with which the harsh consequences of retrospective legislation are guarded against, is well worthy of imitation. (*c*)

In the Report on the Promulgation of the Statutes, before referred to, there is the following suggestion with respect to the requisites in framing statutes :—

"The commencement of the operation of statutes, especially those of penal nature, ought perhaps to be postponed till some short time after the passing of them, upon the principle suggested by Lord Coke, 2d Inst. 670."

It may be observed that this subject has attracted the attention of foreign jurists, and that in countries where codes have been introduced, and where conflicting rights exist under the old and new systems, has given rise to a distinct species of legislation, under the denomination of transitory laws.

The following suggestions for improvements in the mode of framing statutes may be stated, as the result of the above observations :—

1. That the denomination of the session should be fixed by authority.
2. That the numbering of the chapters of the acts of each session, and the numbering of the sections of each chapter, should be fixed by authority.
3. That the extent of the local operation of each statute should be fixed by a distinct clause, or by a separate classification.
4. That the commencement and continuance of each statute should be fixed by a distinct clause, or by a separate classification.

The greater part of what is thus required might be accomplished by an enactment similar to that of the statute 33 Geo. 3. c. 13., by which the clerk of parliament at the end of each session might be directed to fix the title of it, and to number the chapters and sections in each act, and that these should be deemed part of the act, and to class the acts in the manner proposed, where the extent of their operation was limited in respect of time or place.

In conclusion of the above remarks, the inconvenience may be noticed which is referred to in the Report of the Commissioners on the Consolidation of the Statutes from the constructive revival of statutes. (*d*)

By the present rule of law, where an act is repealed, and the act by which it is repealed is afterwards itself repealed or expires, the original act is revived. (*e*)

This appears to admit of a direct remedy by an enactment, that no repealed act should be revived by the subsequent repeal or expiration of the act repealing it, unless so revived expressly.

In modern acts, the inconvenience is usually provided against by an express clause, but there seems to be no reason why the remedy should not be made general.

Where revival is intended, it is also usual to express it, as in 1 & 2 W. 4. c. 13. s. 1.

The rule therefore as to constructive revivals only exists for a mischievous purpose, and cannot be relied upon for an useful one.

(*a*) 6 Geo. 4. c. 16.
(*b*) 9 Geo. 4. c. 14.
(*c*) See Stat. of Westm. 2., 13 Edw. 1. stat. 1. c. 50. ; Statute of Winton, 13 Edw. 1. stat. 2. c. 3.
(*d*) See, together with numerous instances in the Appendix to the Report, the case of Shaw v. Pritchard, 10 B. and C. 241.
(*e*) The question how far a repealed act is revived by the expiration of an act repealing it, is not free from doubt. See Warren v. Windle, 3 E. R. 205., R. v. Rogers, 10 E. R. 569.

Appendix A.

Extracts from the Report of the Committee of the House of Commons on Temporary Laws. 12th May 1796.

"This report is printed among the select reports of the Committees of the H. of C. vol. 14. p. 34.

"Subjoined to the report is a list of expired statutes.

"The report abounds in valuable information as to the statutes. But the accuracy of the list of expired statutes is not to be relied on. Many of the acts therein stated to be expired, having antecedently to the date of the report been continued, confirmed, or made perpetual.

"Many constitutional acts are also included in the list as expired, as—

"The statute 14 Edw. 3. stat. 2. for the general appropriation of Subsidies.

"The statute 4 Hen. 8. c. 8. respecting privilege of Parliament.

"The statute 1 W. & M. stat. 2. c. 2., the Bill of Rights.

"The statute 6 Anne, c. 6., the Act of Union with Scotland.

"A further report on temporary laws was made on the 31st March 1802, containing a list of acts of temporary but uncertain duration, omitting those for funding loans, or granting personal annuities. See Parliamentary Reports.

"The following are extracts from the above report:—

Former Committees on temporary Laws.

"With regard to the repeal, revival, and continuation of statutes, it appears to your committee that this process has been entrusted to the express care of a committee, especially named for this purpose, at least as far back as the reign of James 1., and that their attention was formerly directed also to the consideration of sleeping bills, and of bills brought into Parliament in former sessions, and not passed; the House requiring the opinion of these committees, upon the necessity or utility of renewing them. The effects of this vigilance are evident, when we observe, that in the reign of Eliz. 9 general statutes of repeal and continuance were enacted; that 39 Eliz. c. 18. disposes of no less than 53 different acts of parliament; that by 1 James 1. c. 25, 15 are repealed, and 45 revived or continued; and that by 21 James 1. c. 78., there were no less than 64 revived or continued, and 71 repealed.

"According to modern usage, it is only from this committee, annually appointed to inquire what laws are immediately fit to be revived or continued, that any regular correction or improvement whatever is bestowed upon the statute law of Great Britain.

"But the limited province of that committee, or perhaps the limitation rather with which its powers have been exercised since the Restoration, has prevented its producing the same beneficial consequences as in earlier ages."

Revision of the Statutes.

"With such a complete publication of the statute law, when provided, the plan for a revision might not be difficult to devise, however laborious in its execution. Adopting the idea of the Commissioners employed in the reign of James 1., but executing it more comprehensively, an examination might be instituted, and a report made of all the laws; enumerating them chronologically, and noting against each individually either—

"1. An existing perpetual law; and when fit to stand, or to be repealed *simpliciter*, or to be repealed and replaced by a new law, or

"2. An existing but expiring law; and whether fit to expire, or to be continued, or to be made perpetual, or

"3. Repealed; and when fit to be re-enacted, or

"4. Expired; and whether fit to be revived.

"An elaborate report of all the statutes, from the Statute of Westminster, 3 Edw. 1. to 7 James 1., which were actually repealed, or then fit to be repealed, and in what instances requiring new laws to be made in their place, is to be found in the British Museum. Probably it may be the very work spoken of by Lord Bacon, 2d vol. 546. It is drawn up as by authority, with detailed reasons for every proposed measure; noting also such statutes as were not then printed in Rastell; and distinguishing what were properly proclamations, and not statutes. A table is subjoined to it, exhibiting the result of the report. Harleian MS., No. 244."

Former Consolidations.

"Some of the most distinguished and meritorious labours of Parliament in the consolidation of statutes are to be seen in the general act for the regulation of Artificers, 5 Eliz. c. 4. The general act for the regulation of the Navy, 22 Geo. 2. c. 33. The general Gunpowder Act, 12 Geo. 3. c. 61. The general Highway Acts, 13 Geo. 3. c. 74. and c. 84.

The general Militia Act, 26 Geo. 3. c. 167. The general Custom House Act for duties and drawbacks. The general Act for Sheep and Wools, 28 Geo. 3. c. 28. The general Loan Act, 31 Geo. 3. c. 30., and the general Act for Seamen's Wages, 32 Geo. 3. c. 28., &c. (*a*)

"The declaration contained in the preamble to the statute 5 Eliz. c. 4. may serve as the best notice of the utility of consolidation; and as a standing document for promoting the future prosecution of similar labours.

"As an auxiliary to this plan of consolidation, or even as an intermediate substitute for it, the parliamentary abstract of the law respecting seamen's wages inserted first in the statute 31 Geo. 2. c. 10., and since repealed with improvements in the statute 32 Geo. 3. c. 67., may serve as a model for the instruction of the lower classes of men in their respective municipal rights and duties."

Obsolete Statutes.

"Obsolete statutes, as far as such a denomination is known to the law of England, mean such only as are superseded, and indirectly repealed by subsequent statutes, no statute losing its validity by mere desuetude. (*b*)

"Obsolete in this sense are all those relating to religious houses, which were abolished by 31 Hen. 8., and all those relating to the tenures which were abolished by 12 Car. 2. c. 24.; those which regard Wales or Scotland prior to their respective unions with England; and those which regard our former dominions beyond sea, &c.

"Obsolete in the popular sense, viz. by the non-existence of the subject matter of the law, are such as regard (*c*)—

"1. Extinct states, viz., the Duchy of Burgundy, 4 Edw. 4. c. 5.

"2. Coins no longer known, viz., Scottish coins, 47 Edw. 3. c. 2., 14 Rich. 2. c. 1.; Gally's halfpence, Pollards, and Crotchets, 27 Edw. 1. c. 3., 11 Hen. 4. c. 5.; Suskins and Dodkins, 13 Hen. 4. c. 6., 3 Hen. 5. c. 1.

"3. Pecuniary prices of trades and manufactures long since changed, viz., wax-chandlers, 11 Hen. 6. c. 12.; sweet wines, Rich. 2. c. 7.; poultry, 37 Edw. 3. c. 3.; hats and caps, 21 Hen. 8. c. 9.; patten-makers, 4 Edw. 4. c. 4., Hen. 5. c. 3.; girdlers, 15 Rich. 2. c. 11.

"4. Arms long since laid aside, viz., bows, hand-guns, crossbows, 7 Rich. 2. c. 13., 12 Edw. 4. c. 2., 1 Rich. 3. c. 11., 3 Hen. 7. c. 13., 3 Hen. 8. c. 3., 8 Eliz. c. 10. &c."

Expired Acts.

"Laws may be said to be expired the duration of which has ceased, either by the termination of the express time for which they were limited, or by the extinction of the subject matter of their operation.

"An enumeration of all the expired laws of a public nature made upon all individual and occasional subjects, would be endless and fruitless, and from this sort of detail your committee profess wholly to abstain. The laws which they have conceived proper to omit relate mostly to matters of obsolete custom (*d*), or local regulation (*e*), or personal concerns (*f*), or they are such as have been superseded (*g*) though not formally repealed by subsequent mutations in our jurisprudence."

Temporary Acts.

"In some instances we may find a temporary law enacted by the insertion of a clause in the body of a perpetual act, viz., 27 Geo. 3. c. 13. s. 22.; and in other laws which are wholly temporary, there is no settled form or certain place assigned to the operative words which denote its continuance. We had its duration sometimes expressed on the preamble, as in the acts provided for the continuance of any particular war, sometimes in the first section, sometimes in the middle of the Act; 4 Geo. 3. c. 27. s. 4., 6 Geo. 3. c. 28. s. 11., but generally at the close. Sometimes it is to be collected only by inference, 34 Geo. 3. c. 9. and c. 79., and 35 Geo. 3. c. 15. and c. 80.

"The efficacy given to these laws is sometimes retrospective as well as prospective, 16 Car. 1. c. 4. Sometimes the existence of the law is made to depend upon the legislation of other countries, 24 Geo. 3. stat. 2. c. 14., and in other cases it is declared that after the principal provisions shall have ceased to operate, the act shall, however, remain in force for the punishment of offences committed in violation of it during its continuance, 29 Geo. 3. c. 64., 33 Geo. 3. c. 66., 34 Geo. 3. c. 80. The variety of periods prescribed for the duration of each statute is such, that caprice herself seems to have exercised her full dominion, and displayed her uncontrolled powers over different clauses of the same law. A pregnant instance of this is exhibited in 36 Geo. 3. c. 40., and the numberless continuances of statutes still remaining temporary in form, though permanent in their

(*a*) Most of these have been the subject of more modern consolidations.
(*b*) Virtually repealed. Qy.
(*c*) Virtually expired. Qy.
(*d*) Mummers and visors, 3 Hen. 8. c. 9.; bowzers, 8 Eliz. c. 10., &c.
(*e*) Calais, Gascony, &c.
(*f*) Grants, pardons, &c.
(*g*) Pilgrims, liveries, sanctuaries, purveyors, &c.

principle, strongly claim the attention of Parliament, as contributing to add complication to a labyrinth already too intricate.

"It is perhaps to be regretted also, that laws confined to cases of a limited description, but depending on some general principle, have not by the means of such committees been extended to all the cases which fall within the range of the principle. But your committee forbear to state any further detail of their observations on these points, apprehen sive that they may already have expatiated upon them too largely."

Acts suffered to expire by Mistake.

"4 Ann. c. 17. was suffered by mistake to expire. See De Golls v. Ward, 4 Bro. P.C 317. So was 29 Geo. 2. c. 28. See Burr. 799, 901. So was 4 W. & M. c. 24. s. 16., giving six days notice to jurors. It was continued by several statutes, viz., 7 & 8 W. & M. c. 32. s. 10., 1 Ann. stat. 2. c. 13. s. 2., 10 Ann. c. 14. s. 4., and 9 Geo. 1. c. 8. s. 2., after which it was never continued; but 3 Geo. 2. c. 25. was passed for the general regulation of jurors without any such provision; and this latter statute by 6 Geo. 2. c. 47. s. 1. was made perpetual. Yet the trial of Crossfield for high treason, April 1796, at the Old Bailey, was postponed upon a supposed continuance of 7 & 8 W. & M. c. 32. s. 10.

"In like manner 16 Geo. 3. c. 3., empowering the King to call out the militia and summon Parliament on fourteen days notice in case of rebellion or invasion, was suffered to expire. It had been enacted to continue seven years, and it was not till 26 Geo. 3. c. 167. that this law was revived in the general Militia Act, ss. 95, 96, 97. So that the nation was deprived of this constitutional safeguard for three years by the expiration and non-continuance of 16 Geo. 3. c. 3."

Prolixity and Tautology.

"Prolixity and tautology begin in the reign of Hen. 8.

"Instances of prolixity, 28 Hen. 8. c. 7. s. 28., a singular instance of a superfluous proviso.

"1 Edw. 6. c. 1. and c. 12., 5 & 6 Edw. 6. c. 3. and c. 12., prolix and metaphorical style of preambles.

"Instances of tautology, passim."

Discordant Statutes.

"These are what James 1., in his speech upon his accession, calls 'divers cross and cuffing statutes;' and see Harleian MSS., No. 244., in the Report of such Statutes as are fit to be repealed, and a new law to be drawn in their place." (*a*)

Hodge Podge Acts.

"These have been discontinued of late years, but the statute book abounds with them.

"The following are remarkable:—10 Ann. c. 14., 8 Geo. 2. c. 24., 10 Geo. 2. c. 32., 15 Geo. 2. c. 33., 22 Geo. 2. c. 46., 27 Geo. 2. c. 16., 82 Geo. 2. c. 15., 4 Geo. 3. c. 12; and two may be selected as patterns, viz.,—

"In 20 Geo. 2. c. 42., for explaining the Window Tax Act, there is to be found a clause, viz., s. 3., that all existing and future statutes which mention England shall also extend to Wales and Berwick-upon-Tweed, though not particularly named, after which s. 4. reverts to the window tax again.

"17 Geo. 2. c. 40. is entitled An Act to continue the several laws therein mentioned for preventing theft and rapine on the northern borders of England, &c. &c., and for granting a liberty to carry sugars, &c., and to explain two acts relating to the prosecution of offenders, &c., and to prevent the retailing of wines, &c."

Appendix B.

Extracts from the Report on the Promulgation of the Statutes, 5th Dec. 1796. Reports of Committees of House of Commons, vol. 14. p. 119.

Requisites with which every Bill ought to be introduced into Parliament.

"1. The practical importance of punctuation is already instanced in p. 9 of this report. It might even be convenient to lay aside the custom of bringing in bills with blanks, as the sense would thereby be more complete, and frequently much time would be saved, which is now consumed in going through the forms of a committee, for the mere purpose of filling up the blanks, before any debate upon the bill is had.

"2. The numbering of the sections upon the draft of every bill would facilitate the reference to its several parts pending its progress; and after each bill had received the

(*a*) Where two acts are passed in the same session with repugnant clauses, that which last received the royal assent is to prevail. R. v. Just. Middx. 2 B. and A. 818.

royal assent, the numbering the sections on the roll would furnish the means of correct citation; any confusion which might otherwise arise by the insertion or addition of amendments or riders being obviated by deferring to number the sections upon the roll itself until after the passing of the act.

"3. The addition of marginal abstracts to each clause would furnish the most ready breviate for the Speaker in the first instance; would afterwards render the bill more easily understood for debate; and ultimately afford the readiest means of rendering the public acquainted with the contents of each act.

"4. The utility of entitling temporary laws in a manner expressive of their precise duration may be exemplified by an act of the last Parliament, viz. the Pawnbroker's Act, 36 Geo. 3. c. 87. Its title is general, and does not express it to be for any limited time. The first section enacts, that it shall commence 'from the end of the then present session, and last three years, &c.' And the 31st section enacts 'that this act shall be in force for three years, &c.' which, according to 33 Geo. 3. c. 13. would otherwise cause it to 'commence from the day of passing, and not from the *end* of the session.'

"5. The commencement of the operation of statutes, especially those of a penal nature, ought perhaps to be postponed till some short time after the passing of them, upon the principle suggested by Lord Coke, 2d Inst. 670.

"6. Duration. To some temporary acts a clause has been annexed, whereby after the act has ceased to operate substantially, it is declared to be still in force for the sake of supporting prosecutions against those who have violated it during the term assigned for its continuance, 29 Geo. 3. c. 64., 33 Geo. 3. c. 66., 34 Geo. 3. c. 80., &c.

"The rules for securing these requisites, and settling the proper forms of preamble, enactments, and style in each statute, are what Lord Bacon calls, the 'Leges Legum,' and they are ranked by him amongst the elementary principles of correct legislation."

Printed Statutes.

"The only mode in which the statutes are now promulgated is the publication of them by the King's printer. Your committee have not been able to discover at what precise period of time the statutes of the realm were first printed by public authority; but it appears, that the ancient mode of promulgating them by the sheriff's proclamation fell into disuse very soon after the introduction of the art of printing. Private editors in the 15th century published particular collections of the statutes; and in the reign of James 1. the King's printers published collections which were more complete. Immediately after the restoration of Charles 2. the condition of the original statute rolls, and the regulations fit to be observed in printing their contents, became an object of joint care to both Houses of Parliament. The House of Commons in 1661, resolved upon a message to the House of Lords, representing their own anxiety, that proper measures might be taken upon the subject; and the precautions then proposed for guarding the records with due care during the process of printing, are observed at this day (*a*).

"The journals do not show the commencement of printing the statutes of each session by authority. In the Commons' Journals, vol. 1. p. 446, there is an entry of a motion made 5th July 1610, 'To print all statutes, &c.' And in the Lords' Journals, vol. 21. p. 347, there is the following entry of an order made 3d June 1720, 'That all such acts of parliament as shall pass this session, which are in their own nature public acts, or wherein are contained clauses declaring that they shall be allowed in all courts of judicature as public acts, be printed and published.' But this could not be the commencement of the present usage; because there exists at present in the custody of the officers belonging to the House a regular series of the statutes annually published by the King's printer, from the 1st year of W. & M. downwards."

Typography and Punctuation.

"Errors of typography and punctuation are not unimportant, if they lead to practical mischief, and numberless are the instances of these defects in the present editions of our statutes; instances from times anterior to our own are as decisive as any which might be more recent, and their selection is less invidious.

"*Typography.—As to freedom of speech in Parliament.* The following may be deemed a material error of typography, or perhaps an error of a more important nature. The *stat.* 4 *Hen.* 8. *c.* 8., commonly called Strode's Act, is noted to be a private act in the several editions published by Hawkins, Ruffhead, and Rumington; whereas this statute is a public and general subsisting law, not only in the opinion of Lord Coke and of Prynne, but is also declared to be such by the formal resolutions of both Houses of Parliament.—See Hatsell's Precedents, edition 1796. vol. 1. p. 85 and 212; and upon the original roll itself the royal assent is indorsed in the same form as upon every other public act, viz., 'Le Roi le veut.'

"*As to Juries.* The right of every plaintiff to have a jury completed by the 'tales de circumstantibus' was first established by 35 Hen. 8. c. 6. s. 6., whereby it is enacted, that

(*a*) The last proclamation writ found upon the Statute Rolls in the Tower bears date 8 Ric. 2. in the year 1395. Lord Coke says, the writ obtained before printing came into use, and continued to issue till Hen. 7., 2d Inst. 526.

where a full jury shall not appear before the justices of assizes of nisi prius, &c., that then the same justices, upon request made by the party plaintiff or *demandant*, shall have authority to command the sheriff, &c.

"Afterwards the right of the defendant was provided for by 14 Eliz. c. 9. s. 1., whereby it is enacted, that in all cases where the party plaintiff or demandant may have a 'tales,' the party *defendant* may have the 'tales' granted in like manner.

"But in the editions by Hawkins, Ruffhead, Runnington, and Pickering, in stat. 35 Hen. 8., the word *defendant* is printed for the word *demandant*, which is different from the original roll.

"Thus, any party defendant is referred for his right to 35 Hen. 8. c. 6., which gives him no right at all; and the 14 Eliz. c. 9. appears to be a superfluous grant, whereas it is the only source of his privilege. To make the verbal confusion greater, though it renders the error more conspicuous, the 4 & 5 Ph. & M. c. 7. recites the 35 Hen. 8. c. 6. differently from what it appears to be in the same printed editions, but correctly according to the original roll.

"Upon the annual act, 17 Geo. 3. c. 26. s. 4., so much and so minutely discussed in all our courts of law and equity, another instance occurs of a material error in the ordinary editions. The statute upon the original roll marked 112, in the clause which corresponds with what is marked s. 4. in the printed edition, makes it lawful 'to apply to the court in which any action is brought or judgment entered, &c.' But Runnington and Pickering have printed it erroneously in a material word, by making it 'lawful to apply to the court in which any action is brought *on* judgment entered, &c.,' thereby requiring a judgment to have been entered, and an action to have been commenced upon that judgment, before relief could be had by application to the court.

"*Punctuation.*—As to the jurisdiction of justices of the peace over rates of land carriage, the following is a very material instance of the mischief produced by a species of erroneous punctuation even upon the Statute Roll itself:—

"By 3 W. & M. c. 12. s. 24., the justices are empowered to rate the price of all land carriage of goods to be brought *into* any place within their jurisdiction by any common waggoner or carrier; and by 21 Geo. 2. c. 28. s. 3., carriers are prohibited from taking more for bringing goods to *London* than is settled by the justices under 3 & 4 W. & M., &c. for the carriage of goods *from London:* for which purpose the rates settled in the country are to be certified to the magistrates, &c. of Middlesex, &c.

"An act afterwards however passed, viz., 7 Geo. 3. c. 40. s. 61., which is printed from the Statute Roll 192. press 54, in the following manner by the King's printer in the fol. edition, and in those by Ruffhead, Runnington, and Pickering:—

"And be it further enacted, that &c. *an Act* passed in the 21 Geo. 2. (entitled An Act to explain and amend an act passed in the 14th year of his Majesty's reign, entitled An Act for the preservation of the public roads in that part of Great Britain called England). And so much of an act passed in the 3d year of the reign of King Wil. and Mary (entitled An Act for the better repairing and amending the highways, and for settling the rates or the carriage of goods as relates to the settling the rates of the carriage of goods,) except so much thereof as relates to the rate or price for carriage of goods &c., shall be and the same are hereby repealed.

"From this last act, so printed and pointed, an opinion has been entertained that the statute 21 Geo. 2. c. 28. was repealed. And Burn, in his Justice of the Peace, commenting upon this statute under the title 'Carriers,' confirmed the public in this opinion, having expressly asserted the repeal; but the opinion and the comment are both erroneous; and the 2d statute as well as the 1st, is undoubtedly still in force, and this beneficial jurisdiction remains still vested in the magistrates.

"The mistake has arisen wholly from from the mode of punctuation by way of parenthesis: the words 'except so much thereof, &c.' being made to relate to 3 W. & M., instead of relating to the 21 Geo. 2., which is their true sense; and the parenthesis being meant by the framer of this act to include the whole title of 21 Geo. 2., and to extend from the words '21 Geo. 2.' to the words 'except so much, &c.'

"And that this is an existing mistake in the statute book is obvious; 1st, Because the statutes repealed by 7 Geo. 3. c. 40. are all enumerated chronologically, beginning with 1 Geo. 2. and coming down to 6 Geo. 3., and therefore if the statute 3 W. & M. had been designed to be repealed in part, it would have been placed first in order; 2d, Because the Legislature must otherwise be supposed to enact such nonsense as this; viz., that *so much* of an act of W. & M. entitled, &c., except *so much* hereof as relates to, &c., be repealed; and 3d, In the 17th edition of Burn's Justice, his former commentary upon this point is altered accordingly.

"The original error nevertheless still subsists upon the roll and in the statute book, and the erroneous opinion introduced by this erroneous punctuation still prevails in many places, and the operation of a very beneficial law is defeated."

Public and Private Acts.

"In legal language; 1. Acts are deemed to be public and general acts, which the judges will take notice of without pleading; viz., acts concerning the King, the Queen, and the Prince; those concerning all prelates, nobles, and great officers; those concerning the

whole spiritualty; and those which concern all officers in general, such as all sheriffs, &c.; acts concerning trade in general, or any specific trade; acts concerning all persons generally, though it be a special or particular thing, such as a statute concerning assizes or woods, in forests, chases, &c. Comyn's Dig., Tit. Parliament (R. 7).

"2. Private acts those which concern only a particular species or thing or person, of which the judges will not take notice without pleading them; viz., acts relating to the bishops only; acts for toleration of dissenters; acts relating to any particular place or town or to divers particular towns, or to one or divers particular counties, or to the college only in the universities. Com. Dig., Tit. Parl. (R. 7).

"3. In a general act there may be a private clause, *Ibid.* And a private act, if recognized by a public act, must afterwards be noticed by the courts as such. 2 T. R. 569.

"In Parliamentary language; 1. The distinction between public and private bills, stands upon different grounds as to fees. All bills whatever, from which private persons, corporations, &c. desire benefit, are subject to the payment of fees, and such bills are in this respect denominated private bills. Instances of bills within this description are enumerated in the 2d vol. of Hatsell's Precedents, edition 1796, p. 268, &c.

"2. In Parliamentary language another sort of distinction is also used; and some acts are called public general acts; others public local acts, viz., church acts, canal acts, &c. To this class might also be added some acts which though public are merely personal; viz., acts of attainder and patent acts, &c.; and others are called private acts, of which latter class some are local; viz., inclosure acts, &c., and some personal; viz., such as relate to names, estates, divorces, &c." (*a*)

Appendix C.

Extracts from the Proceedings and Ordinances of the Privy Council of England, by Sir Harris Nicolas.

Ancient Mode of framing Acts.

Distinction between Ordinances and Statutes.

"The minutes of the Council on the 26th January 1423, throw some light on one of the most abstruse and important questions in parliamentary history. Although much has been written on the distinction between a statute or act and an ordinance of Parliament, and considerable learning and research have been employed in thei nvestigation, the subject is still involved in such obscurity that no positive conclusion can be drawn from the various statements which have been published. Vide the preface to Ruffhead's edition of the Statutes of the Realm, where the various authorities on the subject are referred to.

"The council having called the clerk of the Parliament before them, certain acts made in the preceding Parliament were read, and he was directed to show the said acts to the justices of both benches, in order that those which were statutes of the realm might be seen by them, and be fairly transcribed (it may be presumed on the Statute Roll), and be afterwards shown to the Lords and proclaimed; and that copies of the other acts relating to the governance of the Lords of the Council and of the realm, should be sent to the clerk of the Council, and having been reduced to writing, should be enrolled in Chancery according to custom.

"This minute corroborates the late Mr. Luder's remark in commenting upon Lord Coke's observation on the insertion of the words,—

"Respectuatur per dominum principem et consilium," in the margin of two proceedings of Parliament in the 11 Hen. 4. Vide Luder's Essay on the Character of Hen. 5., Coke's 3 Inst. p. 225, and Rot. Parl. vol. 3. p. 626–643.

"It would consequently appear, that it was left to the judges to determine what were statutes of the realm; that all statutes were enrolled upon a particular roll, and were proclaimed; that all the other acts and proceedings of Parliament which were entered on the Parliament Roll, were considered Acts of Parliament in the modern acceptation of the expression, and consequently that they had the full force of a statute, although, from not being usually so important, or of so general a nature as enactments of the laws of the kingdom, it was deemed unnecessary to give the same publicity to them. Some analogy to that practice may be traced in the modern system of distinguishing acts of parliament as public and private acts, the former being what were termed statutes, and the latter all other parliament proceedings to which the assent of the three estates was given. It does not belong to this work to pursue the subject further, but it may be observed, that this vexata questio is much elucidated by the minutes of the Council which have been cited, and that in any future inquiry, some caution should be observed in giving the common acceptation to the words "assent of Parliament," there being reason to believe, that in many cases, those words were not intended to, and did not imply, such an assent as to

(*a*) That acts are still deemed private, though made public for the purpose of being judicially noticed, see Guthrie v. Fish, 3 B. and C. 185.

impart to the proceeding the force and character either of a statute of the realm, or of an act or ordinance of Parliament." (*a*)

Assent of Parliament.

"Notwithstanding the charter (for legitimating the Beauforts) contains the words: 'We do in the fulness of our royal power, and *by the assent of Parliament, &c.*' there is reason to believe, that even if those words gave to the instrument the force of a statute, they were not introduced with that intention, or from their being necessary to give effect to it, because similar words occur in grants of peerages, which the Crown undoubtedly had the sole power to confer, and because the assent of Parliament was sometimes expressed in patents of that nature, even after the preceding Parliament had been prorogued or dissolved, and before the meeting of the Parliament in which the peer took his seat." (*b*)

The remark of Luder's above alluded to, is as follows. In answer to the charge of presumption brought by Lord Coke, 3d Inst. 225, against the Prince, founded upon entries in the Parliament Roll of the respite of two ordinances "by the Lord the Prince and the Council," he observes—

"If Sir E. Coke had seen as much of the proceedings in Parliament of those times as we of this day have been furnished with by the printing of the rolls, he would probably have entertained a different opinion upon this and some other points of parliamentary law, from those which now appear in his writings. In this instance it will be easy to show, that the usage and law of Parliament in Hen. 4.'s time, authorized the practice he complains of.

"The acts and proceedings of the two Houses out of which the statutes were framed, were not then drawn into the form of statutes till the close of the session; and the care and superintendence of this belonged to the King's Great Council assisted by the judges. I need only refer again to that entry of May 2d, before quoted in p. 63, to show the authority of the Council in such matters. It begins thus: "The Commons came before the King and Lords in Parliament, and there prayed to be informed of the names of the Lords who shall be of his continual Council, to execute the good appointments and ordinances made in this present Parliament.

"The Council, therefore, (not the Prince), acted agreeably to the power vested in them, in preventing this ordinance from obtaining its final establishment as a statute, if they found cause for so doing. That the Parliament of this time did put such construction upon their own proceedings is evident from what passed in the next Parliament on the subject of that other ordinance of this year, which the Prince and Council had respited in the same manner. I will only refer to the passages in the printed rolls for those readers whose studies may lead them to consider the point more minutely, being sensible that I have already said more than was necessary here. See the roll of 13 Hen. 4. p. 666. No. 49., compared with No. 63. of p. 642, in 11 Hen. 4., and chap. 10 of Lord C. J. Hale's tract on the Lords' Jurisdiction, also Elsyhge's Expeditionis Billarum Antiquitas, pp. 60, 61, 65, 66.

"The passage taken from the roll of the 13th year of Hen. 4., before given in part in p. 65, shows the high sense conceived of the merits of this Council, both by the King and the Commons, for the faithful discharge of their duty; and leaves no room for supposing that they acted wrong on this occasion.

"The effect of this act of parliament, which Sir E. Coke printed for the first time, was directly brought into question upon the trial of the Earl of Macclesfield. The managers of his impeachment relied upon it as a statute, and the earl contended that it had not the authority of one." (*c*)

Consolidation of ancient Statutes.

In Hale's History of the Common Law, the ancient statutes are treated as incorporated into the common law, and he considers the statutes previous to Edw. 3. to fall within this description.

This principle seems important to be kept in view with a view to consolidation, and from the period which has elapsed since Lord Hale wrote, it might be a question whether the limit which he fixes might not be usefully extended.

All those statutes which have received a construction by a series of judicial decisions, and particularly where that construction is opposed, as it often is, to their literal enactments, seem to fall within the principle, as the Statute of Uses, the Statute of Frauds, &c.

Any consolidation of these, to be practically useful, must be a consolidation, not of the statutes, but of the law.

(*a*) See preface to vol. 3. p. v. &c.

(*b*) See preface to vol. 3. p. xv.; and see conclusion of last extract.

(*c*) See Luder's Essay on the Character of Hen. 5. when Prince of Wales, p. 68, &c. Something similar to this is to be found in the mode of framing laws, by the Hungarian Diet:—"Such propositions as are ultimately agreed to by the Diet and sanctioned by the King, are arranged in the form of a decree by the Chancery; the decree is transmitted to the county courts, promulgated by these courts, and then becomes law."—See Quin's Voyage down the Danube, vol. 1. p. 199, 3d edition.

All those statutes, which are declaratory of the existing law, or of constitutional rights, would also fall within this principle.

If it were desirable to fix a new period from which such a division might take place, it might, perhaps, be taken with reference to that at which the statutes began to be framed, so as to express more accurately the concurrence of every branch of the legislature.

Previous to Hen. 7. the assent of the Commons is frequently omittted. (See Ruffhead's Preface, vii.) And it was not until the 13 Car. 2. stat. 2. c. 2., that the present form was adopted. (See Ruffhead's Preface, xvi.)

Lord Coke recommends consolidation. "But with this caution, that there be certain statutes concerning the admission of justice, that are in effect so woven into the common laws, and so well approved by experience, as it will be no small danger to alter or change them."

II.

OBSERVATIONS INTRODUCTORY TO THE SUBJOINED LISTS OF THE STATUTES.

The subjoined lists contain all the printed acts from the 9th Hen. 3. to the present time, except those repealing or making perpetual other acts, which, though noticed where they operate, have not been made the subject of separate lists.

The acts are divided into those in force, and those not in force.

The first division consisting of—

1. General.
2. Criminal.
3. Constitutional.
4. Revenue.
5. Local and Personal.

The second division consisting of—

6. Repealed in part.

The third division consisting of—

7. Repealed.
8. Virtually repealed.
9. Obsolete.
10. Expired and virtually expired.

It should be observed that many of the acts, though capable of being referred to more than one of the above heads, have, to avoid repetition and from the necessity of compression in so extensive a subject, been referred to one only, except where the same act comprised subjects of a distinct nature.

The *general acts*, now placed at the head of the series (as the primary subject for consideration), include all the acts in force, not comprised under any of the subsequent heads.

They include many, the provisions of which are partly criminal; and some, the provisions of which, though criminal, are of a remedial nature—as bankruptcy, imprisonment for debt, the repair of bridges, &c.

They also include some which, though technically private acts, are of a public nature—as leases by ecclesiastical persons, &c.

From the nature of our legislation, *criminal acts* are dispersed throughout the whole body of the statutes.

The offences against the revenue laws would alone furnish ample materials for a criminal code; and in fact those made capital are of themselves sufficiently numerous to have been already made the subject of a distinct consolidation.—See statute 52 Geo. 3. c. 143.

The list of criminal acts has therefore been confined to those solely penal, and does not include those where the penalty is of a remedial nature, as by avoidance, or where a civil remedy is also expressly given by the act to the party grieved. This arrangement, however, is necessarily arbitrary, as under criminal acts the penalty of avoidance may be incurred, or civil remedies may exist, independently of the express provisions of the acts.(*a*)

Acts relating to penal actions, and actions against justices, and some other acts relating to justices of the peace, from their immediate connexion with the subject, have also been classed with criminal acts.

Some acts, though technically private, being of a public nature, have also been included.

Among *constitutional acts* have been included those relating to the Crown, the government, the church, and other national institutions. Among these, many criminal, particularly those relating to treason, are included; and some local, as those relating to elections and assizes, as well as some others relating to parts only of the empire.

(*a*) Forster v. Taylor, 5 Barn. and Ad. 887.

Among *revenue acts* have been included those relating to trade and navigation, and other matters under the control of the officers of revenue; many criminal, as before observed, and some local, as some of those relating to trading companies.

Acts in one sense virtually expired (presently to be noticed) have in some cases been retained in this class, where the purpose effected by them is still subsisting, as in the case of the creation of subsisting annuities.

Among local acts, in addition to those usually so termed, have been included, not only those whose operation is confined to particular districts; but many of those whose operation is confined to those parts of the United Empire, not within the ordinary operation of the statutes of England, as Ireland, Scotland, &c. Some, however, of the more important of these have been included among constitutional acts.

Among local acts are also included many relating to private rights, which are virtually expired in the sense above alluded to, and many actually expired, the details of which could not have been followed without an increase of labour disproportionate to any result which could be obtained from it.

As the *acts repealed in part* relate to both classes of statutes (viz. those in force and not in force), in addition to a separate list of them, they have been incorporated under their respective heads.

Among these have been included many in substance, though not in form, repealed, as in the case of revenue acts, where the *duties* only and not the *acts* imposing them (as would have been the more convenient course) have been repealed.

Acts, though not actually repealed, but the operation of which has been superseded by the enactment of subsequents acts, have been classed as *virtually repealed.*

Acts, the operation of which has been superseded by the *failure* or *disuse* of the subject matter of them, have been classed as *obsolete;* these, though in strictness in force (as unrepealed), not being so in effect, have been classed with those not in force.

With *expired acts* (viz. those whose operation was limited to a particular time) have been classed, under the denomination of *virtually expired*, those whose operation was limited to a particular *purpose*, which has been effected. Exceptions to this occur in the case of revenue and local acts, as already noticed. The continuation of acts which have ultimately expired have not been noticed, except among expired acts.

Where the above classification has been departed from, it has usually been noticed in the particular instances.

It may be observed that the above classification does not exactly correspond with the definitions of obsolete and expired acts given in the Report of the Committee of the House of Commons on Temporary Laws (*a*); under the former of which, both those here classed as virtually repealed and virtually expired, would be included; and under the latter of which, those here classed as obsolete would be included.

But is submitted that the distinctions above suggested are sufficient to authorize a departure from it.

The acts included in the Appendix to that Report as expired are marked thus (*) in the subjoined lists.

It may be further observed, that that Report, although abounding in valuable information relating to the statutes, is not altogether to be relied on as an authority for the expiration of the acts included in the Appendix to it, many of which acts having, antecedently to the date of the Report, been continued, confirmed, or made perpetual, as—

The statute Hen. 8. c. 7., which was confirmed by 32 Hen. 8. c. 14., though afterwards repealed.

The statute 1 & 2 Jas. 1. c. 31., which was continued by 3 Car. 1. c. 4. s. 22. and 16 Car. 1. c. 4.

The statute 16 & 17 Car. 2. c. 2., which was made perpetual by 7 & 8 W. 3. c. 36., though afterwards repealed.

The statute 11 & 12 W. 3. c. 16., which is made perpetual by 1 Geo. 1. stat. 2. c. 26. s. 1.

The statute 27 Geo. 3. c. 38., which is made perpetual by 34 Geo. 3. c. 23.

Many constitutional acts are also included in the Appendix as expired, as—

The statute 14 Edw. 3. stat. 2. for the general appropriation of Subsidies.

The statute 4 Hen. 8. c. 8. respecting privilege of Parliament.

The statute 1 W. & M. stat. 2., the Bill of Rights.

The statute 6 Ann. c. 6., the Act of Union with Scotland.

In concluding a review so extensive, it can scarcely be necessary to bespeak indulgence for any errors which may be detected in it.

Lincoln's Inn,
12th August 1836.

(Signed) H. W. Seton.

(*a*) See eports Committees of H. of C., vol. 14. p. 34.

APPENDIX III.

COPY of a LETTER sent to each of the GENTLEMEN appointed to the STATUTE LAW COMMISSION.

Sir, House of Lords, 11th March 1853.

I am directed by the Lord Chancellor to state that it is the intention of Her Majesty's Government to proceed without delay in the work of the consolidation of the Statute Law, according to his Lordship's announcement in the House of Lords.

For this purpose his Lordship has obtained the assistance of Mr. Bellenden Ker, under whose direction the work will proceed. He proposes to obtain the services of four gentlemen, under Mr. Ker, who will be prepared for one year to devote their whole time to the work As the scheme is necessarily to some extent experimental, his Lordship has thought it best to confine his plan for the present to so much only as can be done in one year. The course of proceeding will be regulated by Mr. Ker, under the Lord Chancellor's own immediate superintendence.

The Lord Chancellor is authorized by the Lords of the Treasury to offer to each of the four gentlemen a sum of 600*l.* for his services during the year.

The work must be commenced at the very beginning of next month. A room will be provided with two or three copies of the Statutes, with stationery, &c., but probably it will be found that the chief part of the work can be most conveniently done by each gentlemen at his own chambers.

If you should feel inclined to be one of the four gentlemen selected for this work, the the Lord Chancellor directs me to say he will be happy to name you for the purpose; but his Lordship wishes you to understand that if, from change of plan or any other reason, he shall choose to dispense with your services at the close of the year, you must not consider it a reflection or in any way a hardship upon you.

I have the honour, &c.

(Signed) W. C. SPRING RICE.

APPENDIX IV.

Result of Searches respecting the Saving of Repetition caused by Consolidation Acts.

The Companies' Clauses Act (8 Vict. cap. 16.) has been adopted by 538 acts. The number of pages of this act is 38, and the number of sections is 165.

The Lands Clauses Act (8 Vict. c. 18.) has been adopted by 878 acts. The number of pages of this act is 45, and the number of sections is 153.

The Railways Clauses Act (8 Vict. c. 20.) has been adopted by 571 acts. The number of pages of this act is 47, and the number of sections is 165.

The Markets and Fairs Act (10 Vict. c. 14.) has been adopted by 37 acts. The number of pages of this act is 15, and the number of sections is 60.

The Gas Act (10 Vict. c. 15.) has been adopted by 55 acts. The number of pages of this act is 13, and the number of sections is 50.

The Commissioners' Clauses Act (10 Vict. c. 16.) has been adopted by 72 acts. The number of pages of this act is 30, and the number of sections is 112.

The Waterworks Act (10 Vict. c. 17.) has been adopted by 60 acts. The number of pages of this Act is 25, and the number of sections is 94.

The Towns Improvement Act (10 & 11 Vict. c. 34.) has been adopted by 39 acts. The number of pages of this act is 57, and the number of sections is 216.

The Cemeteries Act (10 & 11 Vict. c. 65.) has been adopted by 12 acts. The number of pages of this act is 14, and the number of sections is 69.

The Towns Police Act (10 & 11 Vict. c. 89.) has been adopted by 30 acts. The number of pages of this act is 21, and the number of sections is 79.

The Public Health Act (11 & 12 Vict. c. 63.) has been adopted by 40 acts. The number of pages of this act is 67, and the number of sections is 152.

The Lands Clauses Act (amendment, Ireland, 14 & 15 Vict. c. 70.) has been adopted by 5 acts. The number of pages of this act is 13, and the number of sections is 32.

The General Inclosure Act (8 & 9 Vict. c. 118.), and the amendment acts of 9 & 10 Vict. c. 70., 10 & 11 Vict. c. 111., 11 & 12 Vict. c. 19., 12 & 13 Vict. c. 83., and 14 & 15 Vict. c. 79., have been adopted by 11 acts, for 233 cases of inclosure. The total number of pages of these acts is 96, and the number of sections is 257.

The total amount of saving of repetition effected by these acts, to the end of the 15 & 16 Vict., would be, assuming that each act adopted the whole, 116,235 pages; but allowing for the number of cases in which these acts have been partially adopted, the saving may be safely estimated, in round numbers, at 100,000 pages.

A. M. Price.

STATUTE LAW.

REPORT

OF

Mr. Bellenden Ker to the Lord Chancellor,

ON THE

PROCEEDINGS OF THE BOARD

FOR THE

REVISION OF THE STATUTE LAW.

Ordered, by The House of Commons, *to be Printed,*
12 *June* 1854.

[*Price 2s. 4d.*]